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ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES

Volume 24, Issue 6
February 4, 2000

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ILLINOIS REGISTER

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DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Heading of the Part: Meat and Poultry Inspection Act

- 1) Code Citation: 8 Ill. Adm. Code 125
- 2) Section Number: 125.260
- 3) Proposed Action:
Amended
Amended
- 4) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 6/50]

5) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection programs as required by the Federal Meat Inspection Act and the Poultry Products Inspection Act and in accordance with Section 16 of the Meat and Poultry Inspection Act, the Department is proposing to adopt amendments of the federal meat and poultry products inspection rules published at 64 FR 53186, October 1, 1999.

The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to update references to the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Measuring Devices." FSIS is amending the provisions in its regulations that reference NIST Handbook 44 to reflect this most recent edition.

- 6) Will this proposed amendment replace an emergency rule in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? Yes

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
217/785-5713
Facsimile: 217/785-4505

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Initial Regulatory Flexibility Analysis:

- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Meat and poultry processing plants
 - B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements.
 - C) Types of professional skills necessary for compliance: No additional professional skills are needed.

- 13) Regulatory agenda on which this rulemaking was summarized: July 1999
The full text of the proposed amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS

CHAPTER 1: DEPARTMENT OF AGRICULTURE

SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT

PART 125

MEAT AND POULTRY INSPECTION ACT

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125.20	Application for License; Approval	125.30	Official Number
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125.70	Schedule of Operations; Overtime	125.80	Official Marks of Inspection, Devices and Certificates
125.80	Official Marks of Inspection, Devices and Certificates	125.90	Records and Reports
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125.110	Disposal of Dead Animals and Poultry	125.120	Reportable Animal and Poultry Diseases
125.120	Reportable Animal and Poultry Diseases	125.130	Detention; Seizure; Condemnation
125.130	Detention; Seizure; Condemnation	125.140	Sanitation Standard Operating Procedures (SOP's)
125.140	Sanitation Standard Operating Procedures (SOP's)	125.141	Hazard Analysis and Critical Control Point (HACCP) Systems
125.141	Hazard Analysis and Critical Control Point (HACCP) Systems	125.143	Imported Products

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125.160	Facilities for Inspection
125.170	Sanitation
125.180	Ante-Mortem Inspection
125.190	Post-Mortem Inspection
125.200	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.210	Humane Slaughter of Animals
125.220	Handling and Disposal of Condemned or Other Inedible Products at Official Establishments
125.230	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.240	Marking Products and Their Containers
125.250	Labeling, Marking and Containers
125.260	Entry into Official Establishment; Reinspection and Preparation of Product
125.270	Meat Definitions and Standards of Identity or Composition
125.280	Meat Definitions and Standards of Identity or Composition

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER 1: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT
 PART 125

SUBPART C: POULTRY INSPECTION

Section	Transportation
125.290	Imported Products (Repealed)
125.295	Special Services Relating to Meat and Other Products
125.300	Exotic Animal Inspection
125.305	

NOTICE OF PROPOSED AMENDMENTS
 TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER 1: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT
 PART 125

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Section 125.320 Sanitation

Section 125.330 Operating Procedures

Section 125.340 Ante-Mortem Inspection

Section 125.350 Post-Mortem Inspection

Section 125.360 Disposition of Carcasses and Parts Handling and Disposal of Condemned or Inedible Products at Official Establishments

Section 125.370 Labeling and Containers

Section 125.380 Entry of Articles Into Official Establishments; Processing Requirements and Other Reinspections; Processing Requirements

Section 125.390 Definitions and Standards of Identity or Composition

Section 125.400 Transportation; Sale of Poultry or Poultry Products

Section 125.410

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective April 1, 1985; peremptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 11 Ill. Reg. 19818, effective November 12, 1986; peremptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; peremptory amendment at 11 Ill. Reg. 19801, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; peremptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; peremptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; peremptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective September 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3114, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11887, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill. Reg. 20633, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6412, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory amendment at 19 Ill. Reg. 15766, effective November 20, 1995; peremptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. 1234, effective September 5, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; peremptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; peremptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; peremptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; peremptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; peremptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; peremptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; peremptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; peremptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART B: MEAT INSPECTION

Section 125.260 Labeling, Marking and Containers

- a) The Department incorporates by reference 9 CFR 317.1 through 317.2(1)(10), 317.2(j)(12) through 317.4(f)(2), 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400 (1997; 62 FR 45016, effective September 24, 1997; 63 FR 7219, effective February 13, 1998; 64 FR 732, effective March 8, 1999; 64 FR 53186, effective November 30, 1999).
 - b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
 - c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield Office of the Department for approval.
 - d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

approval.

e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).

f) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.

g) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.

h) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).

i) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.

j) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.

k) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.

l) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: POULTRY INSPECTION

Section 125.380 Labeling and Containers

a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.134 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443, 381.444, 381.445, 381.454, 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (1997; 62 FR 45016, effective September 24, 1997; 63 FR 7279, effective February 13, 1998; 63 FR 11359, effective May 8, 1998; 64 FR 732, effective March 8, 1999; 64 FR 51186, effective November 30, 1999).

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.

c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.

d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.

e) The specific statements listed in 9 CFR 381.1121 may be added to the label for the shipping container at the option of the licensee.

f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).

g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.

h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.

i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.

j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.

k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.

l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.

m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).

n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.

p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.

q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.

r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Return of Runaway Children

2) Code Citation: 89 Ill. Adm. Code 329

3) Section Numbers: Proposed Action:
329.10 Renumbered, Amendment
329.20 Renumbered, Amendment
329.30 New
329.40 Renumbered, Amendment
329.50 New
329.60 Renumbered
329.70 Renumbered

4) Statutory Authority: 20 ILCS 505 and 45 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: 89 Ill. Adm. Code 329, formerly titled "Return of Runaway Children" is being amended to require a more aggressive and proactive approach to reporting, locating, and follow-up of missing and runaway children. Due to the potential dangers to the child, the Department considers a missing, runaway, or abducted child incident as a major crisis requiring intensive intervention. When any child is reported to be missing, on runaway, or abducted, the amended rules require that:

- the incident be reported to local law enforcement as soon as the worker becomes aware of the incident;
- following the police report, an unusual incident report (UIR) be filed in accordance with 89 Ill. Adm. Code 331, Unusual Incidents Involving Department Clients, Employees, and Facilities;
- notification be given to the child's parent, guardian, or custodian; the juvenile court of jurisdiction; the National Center for Missing and Exploited Children; and Child Find of America;
- intensive follow-up procedures be followed for facilitating the location and return of the child which include attempts by the child's worker to locate the child, frequent checks with the police or appropriate law enforcement officers on the status of the report, monthly meetings between caseworkers and their supervisors to discuss what is being done to locate the child and review the steps that have already been taken;
- specific actions be taken after the child is returned, which include interviewing the child regarding the incident, scheduling a medical examination for the child, informing all those notified of the child's disappearance that the child has been located, and ensuring that other needs the child might have are met, e.g., education, clothing, personal

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

items, and living arrangement; and consideration be given to finding alternative placements for children who have been located and returned.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osofsky
Office of Children and Family Policy
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498
217/524-1983
TTY: 217/524-3715
Internet: OCFPolicies@dcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Requisite Agenda on which this rulemaking was summarized: January 2000

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 329

LOCATING AND RETURNING MISSING, RUNAWAY, AND ABDUCTED CHILDREN
 RETURN-OF-RUNAWAY-CHILDREN

Section 329.10‡ Purpose

329.20‡ Definitions

329.30 Reporting Missing, Runaway, and Abducted Children

329.403 Return of Missing, Runaway, and Abducted Children for Whom the Department is Legally Responsible

329.50 Placement Considerations

329.604 Runaway Children for Whom Another Agency or Jurisdiction is Legally Responsible

329.705 All Other Runaway Children

AUTHORITY: Implementing the Interstate Compact on Juveniles [45 ILCS 10] and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5].

SOURCE: Adopted and codified at 5 Ill. Reg. 5521, effective May 27, 1981; amended at 24 Ill. Reg. _____, effective _____.

Section 329.10‡ Purpose

The purpose of this Part is to describe the requirements for reporting, locating, and returning children who are the legal responsibility of the Department, who are believed to be missing, on runaway, or abducted, and this rule-detais the conditions under which the Department of Children and Family Services will authorize and reimburse for the expenses incurred when returning an Illinois child to Illinois who has run to another state. This Part ~~the rule~~ also details the conditions under which the Department of Children and Family Services will authorize and reimburse for the expenses incurred when returning a child from another state to that state when the child has run to Illinois. ~~the rule also identifies the Department's responsibility with respect to children for whom the Department is legally responsible.~~

(Source: Section 329.1 renumbered to Section 329.10 and amended at 24 Ill. Reg. _____, effective _____)

Section 329.20‡ Definitions

"Abducted child" as used in this Part, means a child who has been concealed, detained, or removed from the jurisdiction of the court in violation of a valid court order granting custody to another.

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"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parent(s) have signed an adoptive surrender or voluntary placement agreement with the Department.

"Missing child" means that a child or youth is absent from the residence of a caregiver or the premises of a child care facility without the knowledge or consent of the person(s) responsible for the child's welfare, the whereabouts of the child or youth are unknown, and intent to run away has not been established.

"Runaway child" means a person under the age of 18 years of age who leaves his home or place of residence without the consent of his parent(s) or guardian or the agency which has been given responsibility for his care and custody.

"Runaway" means that a child or youth has been absent from the residence of a caregiver or the premises of a child care facility without the knowledge or consent of the person(s) responsible for the child's welfare, the whereabouts of the child or youth are unknown, and intent to runaway has been established. If the child or youth has left a note or other indication of intent to run away, he or she shall be considered a "runaway" immediately.

(Source: Section 329.2 renumbered to Section 329.20 and amended at 24 Ill. Reg. _____, effective _____)

Section 329.30 Reporting Missing, Runaway, and Abducted Children

a) Initial Report
 1) Whenever a child, for whom the Department of Children and Family Services has legal responsibility, is believed to be missing or on runaway, or to have been abducted, from a placement facility, the caregiver shall report the incident to Department casework staff no later than the next business day. If the child is believed to be at risk due to the child's age or degree of vulnerability, the caregiver shall report the incident immediately to:
 A) Department casework staff, if the incident occurs during normal working hours;
 B) the State Central Register during after-hours or on weekends.

2) As soon as the child's caseworker learns that a child is missing, the worker shall verbally notify the local police authorities (city police or sheriff's office) and follow their procedures for reporting a missing child that include filing a missing person's report at the police station in the district in which the minor

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most recently resided. The worker shall provide as much identifying information about the child as possible to police authorities, including a photograph of the child and whether fingerprints are on file with the Illinois State Police.

3) After the police report has been made, the worker shall file an unusual incident report (UIR) in accordance with 89 Ill. Adm. Code 331, Unusual Incidents Involving Department Clients, Employees, and Facilities.

b) Other Reports
In addition to the notification required above in subsection (a), the caseworker shall also notify:

1) the child's parents, guardian or legal custodian;
2) the juvenile court of jurisdiction; and
3) the National Center for Missing and Exploited Children and Child Find of America.

c) Required Follow-up Activities
1) After the required notifications, the caseworker shall attempt to locate the child by:

A) Inquiring of the following persons if they have knowledge of the possible location of the child:
i) past known caregiver(s) who have cared for the child for at least six months within the last two years or any other caregivers with whom the child is known to have had a closer relationship;

ii) relatives, including the child's parents;
iii) neighbors and landlord of the child's last known address;

iv) close friends and classmates of the child, including any known boyfriends or girlfriends; and
v) teachers, counselors, and other personnel at the school that the child last attended, or at other schools the child attended if there is knowledge that the child had a close relationship with persons at that school; and
vi) other staff of the Department or purchase of service agency who might have knowledge of the possible location of the minor;

B) reviewing the Public Aid Client Information Systems screen to seek the location of the minor and any other person with whom the caseworker suspects the minor might be living;

C) inquiring of local emergency shelters and homeless youth programs whether they have any information as to the whereabouts of the child; and
D) requesting any of the persons contacted above to contact the caseworker if they subsequently receive any information about the child's location.

2) The child's caseworker shall periodically (no less than once per month) check with the local police or appropriate local law

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enforcement agency on the status of the report. Whenever the caseworker obtains new information that may lead to the whereabouts of the child, the caseworker shall immediately report the information to the local police or appropriate local law enforcement agency.

3) The caseworker shall also keep the court informed of any changes in the child's status.

4) At their monthly supervisory meeting the worker and supervisor shall discuss what is being done to locate the missing child and review what steps are being taken.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 329.40 3 Return of Missing, Runaway, and Abducted Children for Whom the Department is Legally Responsible

a) When other resources are not available the Department shall arrange for and pay for the return of children for whom the Department is legally responsible who have been missing, on runaway run-away, or abducted from their parents' or caretakers' homes.

b) When a child who has been missing, on runaway, or abducted has been found and returned, the child's caseworker shall:

1) Conduct a thorough follow-up interview with the child to determine the circumstances behind the child's disappearance.

2) Schedule a medical examination for the child within 24 hours.

3) Determine what needs to be done for the resumption of the child's educational program.

4) Replace any clothing or personal items the child may need, if these have been lost.

5) Inform the police, the National Center for Missing and Exploited Children, and Child Find of America, and all others who were notified of the absence, that the child has been located.

6) Complete a report of the incident that can be promptly accessed and reviewed if the child disappears again.

(Source: Section 329.3 renumbered to Section 329.40 and amended at 24 Ill. Reg. _____, effective _____)

Section 329.50 Placement Considerations

When a child who has been missing, on runaway, or abducted has been found and returned, the child's caseworker shall determine whether the child should be returned to the placement from which the child disappeared or whether a new placement is in the child's best interests. New placements must comply with the requirements of 89 Ill. Adm. Code 301, Placement and Visitation Services.

2) The child's caseworker shall periodically (no less than once per month) check with the local police or appropriate local law

(Source: Added at 24 Ill. Reg. _____, effective _____)

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Section 329.604 Runaway Children for whom Another Agency or Jurisdiction is Legally Responsible

When another agency, state, county, city, or other jurisdiction is legally responsible for children who have run away, the Department shall not arrange for or pay for the return of the child.

(Source: Section 329.4 renumbered to Section 329.60 at 24 Ill. Reg. _____, effective _____)

Section 329.705 All Other Runaway Children

a) When no agency, state, or jurisdiction is legally responsible for children who have run away, the Department is to contact the state from which the children have run and request that state to arrange for and pay for the return of the children according to the provisions of the Interstate Compact on Juveniles. If the state from which the children have run away refuses to arrange for or pay for the children's return, the Department shall arrange for and pay for the return of children from Illinois to another state. However, the Department will not arrange for or pay for the return of an Illinois child for whom the Department is not legally responsible when the child runs away to another locale in Illinois.

b) Arranging for the Interstate Return of Runaway Children
The Department is authorized to arrange for the return of runaway children between Illinois and another state when:

- 1) another agency or jurisdiction is not legally responsible for the child;
- 2) the child will be returned to his state of legal residence and family or other caretaker; and
- 3) when the child or an individual speaking on behalf of the child consents to his return.

c) Paying for the Interstate Return of Runaway Children
The Department is authorized to reimburse another agency or jurisdiction for the return of runaway children between Illinois and another state when:

- 1) the arrangements for the child's return meet the conditions above; and
- 2) the agency or individual has obtained Department approval for the expenses before they were incurred.

(Source: Section 329.5 renumbered to Section 329.70 at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: WIC Vendor Management Code

2) Code Citation: 77 Ill. Adm. Code 672

3) Section Numbers:

672.100	Proposed Action:
672.105	Amendment
672.200	Amendment
672.210	Amendment
672.215	Amendment
672.220	Amendment
672.225	Amendment
672.420	Amendment
672.425	Amendment
672.450	Amendment
672.460	Amendment
672.505	Amendment
672.510	Amendment
672.515	Amendment
672.600	Amendment
672.610	Amendment

4) Statutory Authority: Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255].

5) A Complete Description of the Subjects and Issues involved: The WIC Vendor Management Code will be amended to incorporate changes as mandated by the amendment of the Federal regulations for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (7 CFR 246).

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief

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Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor Harris Bldg.
 Springfield IL 62762
 Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
 None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page.

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TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER I: MATERNAL AND CHILD HEALTH

PART 672

WIC VENDOR MANAGEMENT CODE

SUBPART A: GENERAL PROVISIONS

Section	Definitions	Definitions
672.100	Incorporated	and Referenced Materials
672.105	Purpose	
672.110	Application of These Rules	
672.115		

SUBPART B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

Section	Geographic Distribution and Number of Vendors	Application Procedures
672.200		
672.205		
672.210		
672.215		
672.220		
672.225		

SUBPART C: WIC VENDOR EDUCATION

Section	Initial WIC Retail Training by the Department	Initial WIC Retail Training by a Vendor
672.300		
672.305		
672.310		
672.315		

SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

Section	Authorization	WIC Vendor Contract Requirement
672.400		
672.405		
672.410		
672.415		
672.420		
672.425		
672.430		
672.435		
672.440		
672.445		
672.450		
672.455		

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672.460 Voluntary Withdrawal from the WIC Vendor Contract

672.465 Notices

SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section 672.500 Compliance Monitoring Inspections

Federally Mandated Vendor Sanctions Violations
State Agency WIC Vendor Sanctions

Vendor Rights Regarding Notice and Appeal Criteria-for-Permituation-or-Suspension-of-Authorization-Prohibition-and/or-Fine-Assessment

672.515 Breach of Contract

672.520 Notice of Violation (Repealed)

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS

Section 672.600 Hearings

Parties to Hearings (Repealed)

Appearance and Representation of a Party

Commencement of an Action (Repealed)

Motions (Repealed)

672.610 Discovery (Repealed)

672.615 Form of Papers (Repealed)

672.620 Service (Repealed)

672.625 Pre-Hearing Conferences (Repealed)

672.630 Conduct of Hearings (Repealed)

672.635 Subpoenas (Repealed)

672.640 Burden of Proof (Repealed)

672.645 Administrative Law Judge's Report and Final Decision (Repealed)

672.650 Records of Proceedings (Repealed)

672.655 Miscellaneous (Repealed)

APPENDIX A Illinois Regional Map

AUTHORITY: Implementing and authorized by the WIC Vendor Management Act [410 ILCS 255].

SOURCE: Adopted at 14 Ill. Reg. 19984, effective December 1, 1990; amended at 16 Ill. Reg. 17734, effective December 15, 1992; amended at 18 Ill. Reg. 2450, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 13125, effective August 12, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 606, effective January 9, 1995; amended at 19 Ill. Reg. 16086, effective November 20, 1995; amended at 21 Ill. Reg. 3960, effective March 15, 1997; recodified from the Department of Public Health to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 3127, effective January 22, 1998, for a maximum of 150 days; emergency expired on

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June 20, 1998; amended at 22 Ill. Reg. 18960, effective October 1, 1998; emergency amendment at 23 Ill. Reg. 4553, effective April 2, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10843, effective August 23, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 672.100 Definitions

"Act" means the WIC Vendor Management Act [410 ILCS 255].

"Administrative Law Judge" means any person appointed by the Secretary to preside at an Administrative Hearing.

"Administrative--Warning"--means--a--written--notice--which--describes--the nature--of--a--violation--to--the--WIC--program--and--a--request--for--correction of--the--violation--.

"Applicant" means the individual, partnership, limited partnership, unincorporated association, limited liability company, or corporation applying to be a WIC Retail Vendor.

"Applicant's--Composite--Food--Package--Cost"--means--an--amount--determined by--first--multiplying--the--quantity--of--each--WIC--Food--Item--in--the Composite--Market--Basket--times--the--Applicant's--lowest--shelf--price--for each--item--as--determined--during--the--Retail--Vendor--Price--Survey--. These totals--are--then--added--together--to--determine--the--cost--of--all--items--in the--Composite--Market--Basket--. In--determining--the--lowest--shelf--price for--juice,--cheese,--and--cereal--the--Department--will--use--the--average--of the--lowest--shelf--prices--of--the--two--varieties--which--the--Department--has determined--are--the--most--frequently--received--varieties--of--that--WIC--Food item--. If--the--Applicant--has--no--supply--of--one--or--both--of--the--most frequently--received--varieties--the--Department--will--use--the--one--or--two varieties--with--the--lowest--shelf--price--. In--determining--the--lowest shelf--price--for--infant--formula--the--Department--will--use--a--weighted average--of--the--lowest--shelf--prices--for--the--WIC--approved--brands--taking into--account--the--percentage--of--each--brand--used--by--WIC--Participants--.

"Application" means the application forms and other required materials submitted by a Business Entity to notify the Department that the Business Entity desires to become a WIC Retail Vendor.

"Authorization" means the approval of an Applicant who has met the WIC Vendor criteria and possesses a properly executed, valid WIC Vendor Contract as a WIC Retail Vendor.

"Business Entity" means the retail business which an Applicant or authorized WIC Vendor operates at a particular Vendor Site.

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"Civil Money Penalty" means a penalty which may be imposed in lieu of sanction as set forth in this Part. Calculation of the civil money penalty (CNP) shall be based on a current formula provided in 7 CFR 246 of the Code of Federal Regulations.

"Composite--Market--Basket" means those quantities of WIC Food items received by a statistician--average WIC Participant over a one--month period.

"Contested--Case" shall have the meaning ascribed it in Section 1-30-0f the Illinois Administrative Procedure Act [5 ICS 10-1-30-0f].

"Corporate Officer" means the identity of the officer of a Corporation as set forth in its Articles of Incorporation as filed with the Secretary of State wherein such entity is incorporated.

"CSFP" means the Commodity Supplemental Food Program which is a Federal food assistance program through which the Department or its Representative provide U.S. Government commodities to low-income women, infants and children and eligible elderly.

"Department" means the Illinois Department of Human Services. (Section 3(a) of the Act)

"Department Estimated Cost" means estimated prices based on indicators including wholesale prices for WIC foods and the self reported vendor prices on the Vendor Retail Price Survey, which are averaged and weighted by Store Type and Region.

"Department Representative" or "Representative of the Department" means an employee or authorized agent of the Department.

"Education Visit" means a survey of an applicant/vendor site where the monitor and the designated store representative review the criteria for authorization as a retail WIC vendor.

"Expired Food" means a WIC approved infant formula Food item available to WIC Participants on a store shelf which exceeds the stamped date printed on the food item and labeled as one--of--the--following: Expiration date--"Sell--By" date--"Best--If--Used--By" date--"Best--When Purchased--By" date before use before date, printed on the item.

"Fine" means an amount of money imposed as a penalty.

"Food Instrument" or "FI" means a negotiable voucher issued by a Local Agency that specifies the quantity, size and type of authorized foods available to a WIC Participant within a designated time period, which can subsequently be taken to a Vendor in exchange for the specified

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quantities of food.

"Food Voucher" means Food Instrument.

"Grocery Store" means a fixed and permanent retail store whose primary business is the sale of food.

"IAPA" means the Illinois Administrative Procedure Act [5 ICS 100].

"Illinois WIC Retail Food Delivery System" means the system in which Participants obtain WIC foods by submitting a Food Voucher to a WIC Retail Vendor.

"Invalid Vendor" is a rejection label which means a Food Instrument deposited or mailed by Vendor which has been encoded and rejected by the Department's contract bank for the following reasons: the Food Instrument has not been stamped with the Vendor Number, the Vendor Number is unauthorized, unreadable, not in the space indicated, or a counterfeit Vendor Stamp is used. Typed or handwritten numbers shall not be accepted.

"Limited Liability Company" means a company organized and existing under the Limited Liability Company Act [805 ICS 180].

"Local Agency" means a public or private, non-profit health or human services agency which provides health services, either directly or through contract, in accordance with the USDA WIC Regulations, the Act, or this Part.

"Minimum Supply of WIC Foods" means the Department published list of the minimum required quantities, sizes, and types of WIC Foods which must be maintained in stock at all times by a Vendor.

"Participant" means authorized pregnant women, breastfeeding women, postpartum women, infants or children who are receiving supplemental foods or Food Instruments under the WIC program.

"Participant Access" means the determination by the Department as to the availability of authorized Vendors within a geographic area.

"Participant--Requested--Delivery--means--a--Participant--requested--delivery--of--WIC--Approved--Food--from--a--Vendor--to--an--address--specified--by--the--WIC--Participant--or--Proxy--.

"Participant/Vendor Ratio" means the total number of WIC Participants redeeming Food Instruments through WIC Retail Vendors in a given region divided by the total number of WIC Retail Vendors in the same region.

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"Pharmacy" means any store, shop, department, or other place, at a fixed and permanent location, having the capability to dispense and sell or offer for sale at retail value by a licensed pharmacist drugs, medicines, poisons, and liquid foods, prescribed for an individual by dentists, veterinarians, and physicians licensed to practice medicine in all its branches.

"Posted Shelf Price" means the clearly displayed price of WIC Foods charged to the general public, identifying the price of the specific WIC Food item. When no price is posted, the Posted Shelf Price shall be deemed to be the average price for a particular food item based on the Retail Vendor Price Survey for stores of like size and location.

"Probation" means a period of time during which the Vendor will be under increased scrutiny by the Department.

"Proxy" means a person who is authorized by the Local Agency and the WIC Participant to accept and/or redeem Food Instruments on a participant's behalf.

"Region" means a geographic area in the State of Illinois which is identified by specific boundaries determined by the Department. (See Section 672, Appendix A.)

"Regional-Average-Composite-Food-Package-Cost" means an amount determined by first multiplying the quantity-of-each WIC Food item-in the-Composite-Market-Basket-times-the-average-regional-shef price-for that-item-as-derived-from-the-Retail-Vendor-Price-Survey-for-the region-weighted-to-reflect-the-distribution-of-Store-types-in-the Region--These--totals--are--then--added--together--to--determine-the regional-average-cost-of-all-items-in-the-Composite-Market-Basket.

"Retail Vendor Price Survey" means the current prices, reported to the Department, by a Vendor or a Department Representative, as charges for WIC Foods.

"Secretary" means the Secretary of the Illinois Department of Human Services or designee.

"Store Type" means the classification of WIC Retail Vendors by the number of active customer check-out lanes/cash registers. One or two lanes is a type 1 Vendor Site. Three or four lanes is a type 2 Vendor Site. Five to seven lanes is type 3 Vendor Site. Eight or more lanes is a type 4 Vendor Site. A Pharmacy is a type 5 Vendor Site and a WIC Food Center is a type 6 Vendor Site.

"USDA" means the United States Department of Agriculture.

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"USDA WIC Regulations" means the Regulations of the United States Department of Agriculture, Food and Consumer Service, Special Supplemental Nutrition Program for Women, Infants, and Children (7 CFR 246 (1999 †999)).

"Valid WIC Retail Vendor Contract" means a contract that is binding only between the Department and the officer, partner or sole proprietor who originally signed the Vendor Application and Vendor Contract.

"Vendor" or "WIC Retail Vendor" means the individual, partnership, limited partnership, unincorporated association, limited liability company, or corporation authorized by the Department to accept Food Instruments and to provide supplemental food to WIC Participants, Proxies of WIC Participants or Department Representatives.

"Vendor Number" means the number assigned to an authorized Vendor by the Department for validating Food Instruments.

"Vendor Site" means a fixed and permanent location, operating as a Business Entity, listed in the WIC Vendor Application, which has been authorized by the Department for purposes of delivery of WIC Foods to WIC Participants or the Proxy of a WIC Participant.

"Vendor Stamp" means the stamp provided to a Vendor by the Department for validating Food Instruments.

"Violation" means an infringement of Federal or State rules or statutes or local laws.

"WIC Food Centers" are WIC food distribution sites through which the Department or its Representative provide the direct distribution of WIC foods.

"WIC Food List" means the published list of the State of Illinois authorized WIC Foods.

"WIC Foods" means those competitively priced foods which have been placed on the WIC Food List, which have been determined by the Department to be nutritionally qualified for the WIC Program in the State of Illinois.

"WIC Participant Identification Card" means the card issued by a Local Agency to a Participant for purposes of the WIC Program.

"WIC Vendor Contract" means an agreement signed by the WIC Retail Vendor and the Department for the provision of WIC Foods to Participants, the Proxies of WIC Participants or Department

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Representatives.

"Women Infants and Children Nutrition Program" and "WIC" mean the Federal Special Supplemental Nutrition Program for Women Infants and Children authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 USC 8755e-1786). (Section 3(a) of the Act)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.105. Incorporated and Referenced Materials

a) The following State rules and statutes are referenced in various Sections of this Part:

- 1) The WIC Vendor Management Act [410 ILCS 255]
- 2) The Illinois Purchasing Act [30 ILCS 505] (Sections 672.210(a)(5) and (7) and 672.435)
- 3) Sections 33E-3 and 33E-4 of the Criminal Code of 1961 [720 ILCS 5/33E-3 and 33E-4] (Section 672.210(a)(10))
- 4) Section 2-102 of the Illinois Human Rights Act [755 ILCS 5/2-102] (Section 672.440)
- 5) Rules-of-Practice-and-procedure-in Administrative Hearings (89 Ill. Adm. Code 508 !).

b) The following federal regulations are incorporated in various Sections of this Part:

- 1) USDA WIC regulations - Special Supplemental Food Program for Women, Infants and Children; (7 CFR 246)
- 2) USDA nondiscrimination regulations - Nondiscrimination (7 CFR 15); Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance (7 CFR 15a); and Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance (7 CFR 15b) (Section 672.440).

c) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

- d) All citations to federal regulations in this Part concern the specified regulation in the January 1998 1994 Code of Federal Regulations, unless another date is specified.
- e) Copies of all incorporated materials are available for inspection and duplication (at a fee in accordance with Section 1176.410 1126.410 of the Department's Freedom of Information Code (2 Ill. Adm. Code 1176 1126) by the public at the Department's Central Office, Office of Family Health, Bureau of Family Nutrition Division--of--Health Assessment--and--Screening (535 West Jefferson, Springfield, Illinois 62761).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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) NOTICE OF PROPOSED AMENDMENTS

SUBPART B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

Section 672.200 Geographic Distribution and Number of Vendors

Prior to offering an application to a potential Applicant vendor, the Department shall utilize Participant/Vendor Ratios and shall consider Participant needs within geographic locations to determine if the Applicant meets the Regional Participant/Vendor Ratio to be eligible for selection. The Participant/Vendor Ratio shall be calculated for the geographic regions within the State of Illinois (see Appendix A) to determine the need for WIC Retail Vendors within such regions. Participant/Vendor Ratios for each of the nine regions--within--Illinois--shall--be--at Regions one through six shall be greater than 40:1 40:1 but shall be less than 60. Regions seven and eight shall be greater than $\frac{100:1}{100:1}$ but less than 160. Region nine shall be greater than 145:1 145:1 but less than 175.

b) With the exception of a Pharmacy--if--an--Applicant--applies--for--WIC Authorization--in--a--region--which--has--more--vendors--than--the--minimum number--of--vendors--and--fewer--vendors--than--the--maximum--number--of--vendors allowed--in--the--region--the--Applicant--shall--not--be--authorized--unless the--Applicant--agrees--to--charge--the--Department--a--maximum--of--95%--or--less of--the--maximum--value--of--the--Food--Instrument--) or--of--the--lowest--shelf price--for--WIC--Food--Items--) whichever--is--less--and--agrees--not--to--exceed this--95%--level--for--more--than--two--months--during--the--contract--Period--of Authorization--Vendors--authorized--under--this--provision--whose--charges to--the--Department--exceed--95%--of--the--maximum--value--of--the--Food Instrument(s)--or--the--lowest--shelf--price--for--WIC--Food--Items--) whichever is--less--shall--be--placed--on--probation--for--the--duration--of--their contract--Period--In--addition--such--Vendors--shall--reimburse--the--Department--for--the--difference--between--the--amount--received--and--95%--or--less--of--the--maximum--value--of--the--Food--Instrument(s)--or--the--lowest shelf--price--for--WIC--Food--Items--) whichever--is--less--if--the--Vendors--do not--pay--this--reimbursement--within--30--calendar--days--from--the--date--they are--notified--they--shall--be--subject--to--violations--specified--in--Section 672.505(t).

c) If--a--region--has--the--minimum--number--of--vendors--(see--Section 672.500(f)(7)--an--Application--shall--not--be--offered--to--a--potential--Applicant--Vendor--at--a--Vendor--Site--where--during--the--previous--three--years--a--Vendor--has--been--terminated--or--has--consented--to--withdraw--in--fieu--of--termination.

d) If--a--region--has--exceeded--the--maximum--number--of--vendors--(see--Section 672.500(f)(7)--an--Application--shall--not--be--offered--

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.210 Authorization Criteria and Procedures

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a) Only WIC Retail Vendors authorized by the Department shall be eligible to accept Food Instruments or otherwise provide supplemental Foods to WIC Participants, Proxies or Department Representatives. Any Applicant seeking Authorization to become a WIC Retail Vendor has an obligation to meet the following criteria before Authorization. In addition, any authorized Vendor has a continuing obligation to meet the below listed criteria during the Period of Authorization:

- 1) The Vendor Site shall be located within the boundary lines of the State of Illinois.
- 2) The Vendor Site shall have a fixed and permanent location. This site shall be the address indicated on the WIC Vendor Application and shall be the location where a WIC Participant, Proxy or Department Representative shall select WIC Foods during business hours.
- 3) This site shall not be at an address or within any building where Food Instruments are distributed to WIC Participants.
- 4) The price charged to the WIC Program for WIC Foods provided through Participant Requested Delivery shall not exceed those prices charged to cash paying customers nor the prices posted at the Vendor Site. The Vendor shall not charge for delivery of WIC Foods.
- 5) Each Vendor Site listed in the Application shall have ~~seventy~~ ~~percent~~ ~~70%~~ or more gross receipts from the sale of non-alcoholic products.
- 6) Authorization to participate in the USDA Food Stamp Program or any other federal food program is not a prerequisite for Authorization as a WIC Retail Vendor. If, however, an Applicant or Vendor has been authorized to participate in the USDA Food Stamp Program or other federal food program, he shall not have been denied, suspended, disqualified, terminated, or assessed a civil money penalty during the ~~two~~ ~~2~~ years preceding Application for Authorization as a WIC Retail Vendor.
- 7) Neither the Applicant, Vendor, nor any officers or officials shall have been involved in bribery as prohibited under Section 10.1 of the Illinois purchasing Act ~~title-Revt-State-1991-ch-127-par-132-11-11~~ [30 ILCS 505/11.1].
- 8) The Applicant or approved Vendor shall be barred from receiving state contracts as a result of any default on any educational loans as that term is defined in the Educational Loan Default Act ~~title-Revt-State-1991-ch-127-par-3550-et-seq-15~~ [5 ILCS 385].
- 9) Neither the Applicant, Vendor, nor his or her spouse or minor children, shall hold an elective office in the State of Illinois, a seat in the General Assembly, appointment or employment in any of the offices of State government during the period of any WIC Vendor Authorization as prohibited under Section 11.1 of the Illinois Purchasing Act.
- 10) Neither the Applicant, Vendor, its officers, directors, individual partners, nor their spouses or minor children who owns

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more than ~~seven~~ ~~and~~ ~~one~~ ~~half~~ ~~percent~~ ~~7 1/2%~~ ownership or beneficial interest in the Business Entity seeking Authorization to participate in the WIC Program shall be employed by the WIC Program of a Local Agency.

9) Neither the Applicant, nor the Vendor shall have been convicted of a misdemeanor involving fraud, misuse or theft of State or Federal funds or of any felony. A certified copy of conviction may be offered and admitted into evidence as proof of such conviction.

10) The Applicant or Vendor shall be barred from bidding on or entering into a WIC Vendor Contract as a result of a violation of Sections 33E-3 or 33E-4 of the Criminal Code of 1961.

11) Neither the Applicant, Vendor, nor any owner of ~~thirty~~ ~~percent~~ ~~30%~~ or more ownership shall have been terminated or disqualified from the WIC Program in the previous ~~three~~ ~~3~~ years.

12) The Applicant or Vendor shall adhere to the provisions of the USDA WIC Regulations, the Act, and this Part.

13) With the exception of a Pharmacy, if the Applicant is a current or former Vendor, the Applicant's charges to the WIC Program as a percentage of the Department Estimated Cost may be ranked against other current or former Vendor Applicants and may be used as an Authorization criteria in order to meet the minimum number of Vendors needed in a region (Section 672.200) (7 CFR Part 246.12(e)(2)).

b) Applicants shall be authorized as WIC Retail Vendors based upon the following:

- 1) An Application and all supporting documents shall be properly completed and verified by the Department. No Application shall be deemed complete unless it includes all necessary supporting documents required by this Part.
- 2) The Applicant's proposed Vendor Site shall be visited inspected by the Department.
 - A) The Department shall conduct an education visit inspection of the proposed Vendor Site after receipt of a complete Application. Such a visit inspection shall determine whether the Applicant has the minimum quantities, sizes, and types of WIC Foods and shall verify any business or financial information submitted by the Applicant. Food products originating from WIC Food Centers or CSEF shall not be counted towards the minimum quantities, sizes, and types of WIC Foods foods.
 - B) If the education visit inspection by the Department discloses that the Applicant's proposed Vendor Site does not have the minimum quantities, sizes, and types of WIC Foods necessary or that business or financial information supplied by the Applicant is erroneous, inaccurate or insufficient, a second visit shall be scheduled. If the second visit does not meet the requirements as stated above, the Application

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3) The minimum quantities, sizes, and types of WIC Foods necessary at a Vendor Site are those specified in the WIC Vendor Contract. A copy of this list shall be provided to each Applicant and authorized Vendor.

4) The Department shall complete a Retail Vendor Price Survey of WIC Foods during the inspection by collecting the lowest posted shelf prices for WIC Foods. If the Applicant's Composite Food Package Cost exceeds the Regional Average Composite Food Package Cost by five percent (5%) or more, the Application shall be denied unless the Applicant is a Pharmacy or drug store which only redeems Food Instruments for infant packages.

45) The Applicant shall be notified by the Department, within thirty (30) calendar days, whether or not the visit inspection of the proposed Vendor Site, the business, the financial, or other information provided by the Applicant meets meet the criteria set forth in this Part. If the Applicant meets such criteria, he shall be notified in writing of approval to attend the initial Retail Vendor training course or of his eligibility for an initial Retail Vendor training course or of his eligibility for an initial Retail Vendor training course waiver. (See Section 672.300.)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.215 WIC Food List and Quantities

a) Foods which qualify for delivery to WIC Participants shall be determined by the Department in accordance with 7 CFR 246.10 and placed upon a list which shall be made public. This list shall be printed and distributed at least once each year with the effective date of implementation printed on the face of the list. Changes made to the WIC Food List by the Department including addition and deletion of eligible foods, shall be distributed to all Local Agencies, eligible Participants and WIC Vendors prior to implementation. If a Vendor intends to utilize a WIC Food List which differs in form from the WIC Food List distributed by the Department such list shall require prior approval of the Department. To obtain such approval the Vendor shall submit a request for such use in writing to the Department and shall include a copy of the food list it intends to use. The Department shall review the food list submitted and inform the Vendor whether it shall approve or disapprove of the use. Such disapproval of such a request shall not give rise to any right of administrative appeal.

b) The Vendor is allowed to offer a food item from the WIC Food List which is the same quantity and the same or lesser price as on the WIC

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Food List or Food Instrument, but is a higher grade or in a different size container.

c) Minimum required quantities as specified in the WIC Vendor Contract are as follows:

1) All Vendors in the City of Chicago shall maintain sufficient quantities to provide food for three-t³ infants, three-t³ children, and three-t³ women.

2) All Vendors outside of the City of Chicago shall maintain sufficient quantities to provide food for two-t² infants, two-t² children, and two-t² women.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.220 Criteria for Denial of Authorization

A determination by the Secretary to deny Authorization shall be based upon a finding that one-t¹ or more of the following criteria are met:

a) The Applicant has not met the requirements of the USDA WIC Regulations, the Act, or this Part.

b) The Applicant has submitted false, erroneous, or inaccurate information on the Application, or in the business or financial information provided to the Department or during the course of the education visit on-site-inspection of the proposed Vendor Site.

c) The Applicant has refused to allow the Department access to inspect the proposed Vendor Site during the Applicant's normal business hours.

d) The Applicant has submitted a FEIN or Social Security number for the Business Entity to be operated at the proposed Vendor Site which is not the same FEIN or Social Security number filed for the same Business Entity with the USDA Food Stamp Program and/or with the Illinois Department of Revenue.

e) The Applicant does not have the necessary local, municipal, or village license to operate as a Business Entity at the proposed Vendor Site.

f) With-the--exception--of--Pharmacies--the--Applicant--has--previously--been--authorized--as--a--WIC--Vendor--and--the--Applicant--s--charges--as--a--Vendor--for--WIC--Foods--for--a--minimum--of--three--(3)--months--during--the--contract--period--

ii) more--than--the--Department--Estimated--Costs--for--those--WIC--Foods--as--reflected--in--the--Vendor--Price--Survey--or--

2) at--least--5%--or--greater--than--the--average--charges--submitted--by--other--Vendors--of--the--same--Store--Type--in--the--same--geographic--region--

g) The Applicant has previously been authorized as a WIC Vendor and the Applicant had more than 18 per month of all Food Instruments submitted to the contract bank rejected for a maximum of three-t³ months during a contract period.

h) The USDA Food Stamp Program has imposed against the Applicant any of the following sanctions:

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- 1) civil money penalty;
- 2) suspension;
- 3) disqualification;
- 4) permanent disqualification.
- g+) Failure to pay any fine or reimbursement within the time specified by the Department.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.225 Denial of Authorization

- a) Application for Authorization as a WIC Retail Vendor shall be denied when the Secretary finds that an Applicant meets any of the criteria set forth in Section 672.220.
- b) When the Secretary determines that the Application for Authorization as a WIC Retail Vendor is to be denied, the Department shall notify the Applicant. The notice to the Applicant shall be in writing and shall include:
 - 1) A clear and concise statement of the basis for denial. The statement shall include a citation to the USDA WIC Regulations, the Act, or the provisions of this Part for which the Application is being denied.
 - 2) A description of the right of the Applicant to appeal the denial of the Application within fifteen-15 calendar days after receipt of the letter and the right to a hearing pursuant to Section 672.600.
 - 3) A statement that the Applicant may not reapply again for a minimum one-hundred-eighty-180 calendar days from the date of the notice.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

Section 672.420 Specifications for Rejection of Food Instruments

- a) Food Instruments shall be rejected for payment for the following reasons:

- 1) Submission of a Food Instrument before the "First Day To Use".
- 2) Submission of a Food Instrument for payment more than sixty-60 calendar days past the "First Day To Use".
- 3) Submission of a Food Instrument identified by the Department or the Department's contract bank as Invalid Vendor.
- 4) Submission of a Food Instrument by an unauthorized Vendor, or submission of a Food Instrument which has an unauthorized, inaccurate, or missing Vendor Number.

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- 5) Submission of a Food Instrument without a Participant or Proxy signature.
- 6) Submission of a Food Instrument whose value is greater than the maximum value amount printed on the Food Instrument.
- 7) Submission of a Food Instrument which has been altered.
- 8) Submission of a Food Instrument which has been fraudulently created.
- 9) Submission of a Food Instrument after knowledge that the contract has been repudiated or the Vendor disqualifies notice—that—a material-breach-of-contract-has-occurred—Section 672.520j.
- 10) Submission of a Food Instrument accepted after the term of the contract expires.
- b) The following Food Instruments presented to the Department's contract bank shall not be paid:
 - 1) Food Instruments without the participant's signature;
 - 2) Food Instruments with a missing, inaccurate, or Invalid Vendor Number;
 - 3) Food Instruments submitted for payment before the "First Day to Use";
 - 4) Food Instruments that have been altered;
 - 5) Food Instruments that are over the maximum value; or
 - 6) Food Instruments that have not been obligated by the local agency (stolen stock) 1. or 2.
- c) Any Food Instrument that have been submitted on or after the scheduled date of disqualification or termination.
 - 1) Food Instruments that was accepted at the Vendor Retail Site and not submitted for processing through the contract bank shall not be considered for payment.
 - 2) Appeal procedures for Food Instruments rejected as "Invalid Vendor" and "Amount Invalid" are stated below:
 - 1) The Vendor shall have the option to restamp the Food Instruments which were rejected for "Invalid Vendor". The corrected Food Instrument(s) may be resubmitted according to the instructions described in Section 672.415(g) and (h).
 - 2) The Vendor shall have the option to correct the "Actual \$ Amount of Sale" on the Food Instruments rejected for "Amount Invalid". The corrected Food Instrument(s) may be resubmitted according to the instructions in Section 672.415(g) and (h).
- d) Excessive-rejection-of-Food-Instruments-shall-be-ground-for-denial-of-authorization-of-the-Vendor's-Contract-as-cited-in-Section-672.220tgj:

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.425 WIC Retail Vendor Responsibilities

- a) The Vendor shall monitor the WIC Foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food

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specified on the Food Instrument. Pharmacies or drug stores which only redeem Food Instruments for infant packages, i.e., infant formula, infant cereal, and infant juice, shall be exempt from the minimum stock requirements of those foods which are not in the infant package. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within twenty-four-(24) hours.

b) The Vendor shall accept Food Instruments only within the time limits indicated on the Food Instruments and shall not receive payment for Food Instruments submitted before the "First Day to Use" or after the "Last Day to Use".

c) The Vendor shall be responsible for payment and replacement of a lost, stolen or destroyed Vendor Number Stamp.

d) The Vendor shall display the price of WIC Foods, charged to the general public, in clear view of customers, identifying the price of the specific WIC Food item.

e) The Vendor shall provide WIC Foods to Participants, Proxies or Department Representatives at the same price or less than the price charged to non-WIC customers.

f) The Vendor shall accept Food Instruments only from WIC Participants, Proxies or Representatives of the Department who present a WIC Participant Identification Card.

g) The Vendor shall not issue a WIC Participant, Proxy or Department Representative any document (e.g., rain check) purporting to give the WIC Participant, Proxy or Department Representative the right to buy a WIC Food item or non-WIC Food item after the Food Instrument is signed by the Participant, Proxy or Department Representative. The Vendor shall not exchange any WIC Food item under any circumstances.

h) The Vendor shall charge the Department sale prices. The value of coupons and discounts shall be deducted from the price charged to the Department. The Participant, proxy or Department Representative shall not be given cash for the difference.

i) The Vendor shall participate Participant in an annual WIC training program as specified in Section 672.310.

j) The Vendor shall be responsible for all Food Instruments accepted and processed for payment by current and former employees at the Vendor Site. The Vendor shall also be responsible for the accuracy of any information submitted to the Department by such employees. The Vendor shall be responsible for reviewing Food Instruments which have been accepted to make certain that the total cost does not exceed the posted shelf prices or the prices charged to non-WIC customers.

k) The Vendor shall abide by the USDA WIC Regulations, the Act, and this Part.

l) The Vendor and his Business Entity shall be subject to review by the Department or USDA for the time period covering any present or previous Authorization. Documents to be maintained by the Vendor shall include but not be limited to:

- 1) Original purchase order, including purchase order date; and

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2) Original vendor invoices, showing date showing date received, revealing description of item(s) received, showing vendor model or item number, listing stock keeping unit identification number of item received (if different than the vendor unit ID number), listing quantity received by item, identifying item unit costs, furnishing item cost extension (item cost multiplied by item quantity received), and showing initials of employee receiving and counting inventory on behalf of store.

The Vendor shall maintain all records of purchases, gross sales receipts, and invoices of all WIC and non-WIC Foods for a period not less than thirty-31 years. The original of such records shall be made available to the Department or USDA upon reasonable request. The Vendor shall also provide the Department and USDA the opportunity to inspect all Food Instruments located at the Vendor Site or under the control of the Vendor.

m) The Vendor shall respond truthfully and accurately to Department initiated requests for Retail Vendor Price Surveys, verification of ownership of the Business Entity or Vendor Site, proof of WIC and non-WIC purchases and sales, and proof of the volume of alcoholic beverage sales. Such responses shall be in writing and be provided within fifteen-15 calendar days after of receipt of the Department's request.

n) The Vendor shall maintain all refrigerated areas at temperature of forty-degrees Fahrenheit-40° F or below.

o) The Vendor shall not exchange Food Instruments for any form of currency, or other items of value, nor provide the Participant, Proxy or Department Representative with any amount of currency or coin as change from a partial WIC Food transaction.

p) The Vendor shall not seek restitution from WIC Participants, Proxies or Department Representatives for Food Instruments not paid by the Department or fines levied by the Department, a financial institution or the Department's contract bank. The Vendor shall not seek or receive restitution from the Department for monetary penalties for rejected Food Instruments.

q) The Vendor shall not charge sales taxes for WIC Foods, as the Department is exempt from such tax under tax number E9984-0987-03 B9984-1002-01.

r) The Vendor shall reimburse the Department for any Food Instruments redeemed in violation of the USDA WIC Regulations, the Act, this Part or the WIC Vendor Contract.

s) Neither Authorization as a WIC Vendor nor the WIC Vendor Contract constitutes employment between the Vendor and the Department as a State employee or provides eligibility for any employee benefits provided by the State of Illinois.

t) The Vendor shall offer the same courtesies to WIC Participants, Proxies or Department Representatives as offered to other customers.

u) When material information included in the Vendor's Application changes, the Vendor, by Certified Mail, shall notify the Department in

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v) The Vendor shall not deny a Participant, proxy or Department Representative any WIC Foods indicated on the Food Instrument which the Vendor has in stock.

w) Neither the Vendor, nor his employee, shall require that a Participant, proxy or Department Representative exchange their selection of WIC Foods because the WIC Foods selected exceed the maximum value of the Food Instrument. Nor shall the Vendor request or accept any remuneration for the difference between the Participant selected WIC Foods and the maximum value of the Food Instrument.

x) The vendor shall allow WIC Participants, Proxies or Department Representatives freedom to select any WIC Foods in stock at the Vendor Site.

y) The Vendor shall not maintain in shelf stock any WIC Foods which meet the definition of "Expired Food". (See Section 672.100.)

z) The Vendor shall not accept for payment or credit an unsigned Food Instrument.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.450 Assignment or Transfer

a) The Vendor shall not sell, assign, or transfer in any manner its Authorization, the WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number. Any actual or attempted sale, assignment or transfer of the Authorization, WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number shall be a material breach of the WIC Vendor Contract.

b) It shall also be a material breach of the WIC Vendor Contract if any unauthorized individual, corporation, partnership, limited partnership, unincorporated association, Limited Liability Company,⁷⁷ or former Vendor improperly acquires WIC Authorization after the death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, unincorporated association, Limited Liability Company, or firm, and shall subject the Vendor to disqualification from termination-of-its Authorization, repudiation of its contract and a fine assessment in accordance with Sections 672.5107-672.515 and 672.520 of this Part. In addition, any assignee, transferee, buyer, or recipient of a Vendor's Authorization, WIC Vendor Contract, WIC Vendor Stamp, or WIC Vendor Number shall be in violation of this Part and shall be subject to the same sanctions set-forth in Section 672.5107-672.515 of this Part.

c) At least 15 calendar days in advance, the vendor shall notify the Department of any scheduled sale, lease, bankruptcy or cessation of the Vendor's Business Entity, or of any sale of a majority interest in the Vendor's Corporation, partnership, sole proprietorship, or Business Entity. Such notification shall be sent by certified mail and in writing to the place and address listed in the WIC Vendor

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Contract, Section XVI, Notices.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.460 Voluntary Withdrawal from the WIC Vendor Contract

A Vendor may voluntarily withdraw from participation in the WIC Retail Vendor program with approval of the Department; however, the Department shall not accept voluntary withdrawal as an alternative to disqualification, contract repudiation or sanctions for violations of this Part. A request for such withdrawal shall be made in writing by the Vendor and sent to the Department at least fifteen-^t 15^t calendar days in advance of the desired date of withdrawal. If, at the time of the requested withdrawal, the Vendor owes a fine assessment or any other monies resulting from violation of this Part, such penalty and other monies due shall be paid in full prior to withdrawal from the WIC Retail Vendor program. Any voluntary withdrawal shall be for a period of not less than two-^t 2^t years.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section 672.505 Federally Mandated Vendor Sanctions Violations

Vendors shall receive the following sanctions for the following violations as mandated by 7 CFR 246 (1999):

a) Permanent disqualification:

1) The Department shall permanently disqualify a Vendor convicted of:

A) trafficking in food instruments; or
B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 USC 802), in exchange for food instruments.

2) A vendor shall not be entitled to receive any compensation for revenues lost as a result of such violation.

3) The Department shall impose a civil money penalty in lieu of a disqualification for this violation when it determines, in its sole discretion, and documents that:

A) Disqualification of the Vendor would result in inadequate Participant Access or
B) The Vendor had, at the time of the violation, an effective policy and program in effect to prevent trafficking; and the ownership of the Vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

b) Six year disqualification:

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The Department shall disqualify a Vendor for six years for:

- 1) one incident of buying or selling Food Instruments for cash (trafficking), or
- 2) one incident of selling firearms, ammunition, explosives or controlled substances as defined in 21 USC 802, in exchange for Food Instruments.
- c) Three year disqualification:
- 1) The Department shall disqualify a Vendor for three years for:
 - 1) One incident of the sale of alcohol or alcoholic beverages or tobacco products in exchange for Food Instruments;
 - 2) A pattern of claiming reimbursement for the sale of an amount of specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specified period of time;
 - 3) A pattern of charging WIC Participants more for supplemental food than non-WIC customers or charging Participants more than the current shelf or contract price;
 - 4) A pattern of receiving, transacting and/or redeeming Food Instruments outside of authorized channels, including the use of an unauthorized Vendor and/or unauthorized person;
 - 5) A pattern of charging for supplemental food not received by the Participant; or
 - 6) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 USC 82, in exchange for Food Instruments.
- d) One year disqualification:
- 1) The Department shall disqualify a Vendor for one year for a pattern of providing unauthorized food items in exchange for Food Instruments, including charging for supplemental food provided in excess of those listed on the Food Instrument.
- e) Second sanction:
- 1) When a Vendor, who previously has been assessed a sanction for any of the violations in subsections (b) through (d) of this Section, receives another sanction for any of these violations, the Department shall double the second sanction.
- f) Third or subsequent sanction:
- 1) When a Vendor, who previously has been assessed two or more sanctions for violations in subsections (b) through (d) of this Section, receives another sanction for such violations, the Department shall double the third sanction and all subsequent sanctions for such violations.
- g) Disqualification based on a Food Stamp Program disqualification:
- 1) The Department shall disqualify a Vendor who has been disqualified from the Food Stamp Program. The disqualification shall be for the same length of time as the Food Stamp Program disqualification, may begin at a later date than the Food Stamp Program disqualification, and shall not be subject to administrative or judicial review under

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the WIC program.

h) Voluntary withdrawal or non-renewal agreement:

The Department shall not accept voluntary withdrawal of the Vendor from the Program as an alternative to disqualification for the above listed violations of this Section, but shall enter the disqualification on the record. In addition, the Department shall not use non-renewal of the Vendor agreement as an alternative to disqualification:

i) Participant Access determinations:

- 1) Prior to disqualifying a Vendor for a violation of subsections (b) through (d) or (g), the Department shall determine if disqualification of the Vendor would result in inadequate Participant Access.
- 2) When making Participant Access determinations, the Department shall consider, at a minimum, the availability of other authorized Vendors within the same area as the violative Vendor and any geographical barriers to using such Vendors.
- 1) Civil money penalty:
- 1) The Department may impose a civil money penalty in lieu of disqualification for violations in subsections (b) through (d) or (g), if the Department, in its sole discretion and documentation determines that disqualification of the Vendor would result in inadequate Participant Access.
- 2) If a civil money penalty is imposed in lieu of disqualification under this Section, it shall be calculated for each violation subject to sanction under this Section, using the formula set forth in 7 CFR 246.12(k)(1)(x).
- 3) If a Vendor does not pay, or only partially pays, the penalty, the Department shall disqualify the Vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed (for a period corresponding to the most serious violation in cases where the federally mandated sanction includes the imposition of multiple civil money penalties as a result of a single investigation).
- 4) Civil money penalties may be doubled for second sanctions under this Section up to the limits set forth in 7 CFR 246.12(k)(1)(x). Civil money penalties may not be imposed in lieu of disqualification for third or subsequent violations under this Section.
- k) Notification to Federal Food and Nutrition Service:
- 1) The Department shall provide the appropriate FNS office with a copy of the notice of administrative action, and information on Vendors it has disqualified or on whom it has imposed a civil money penalty in lieu of disqualification for any of the violations of this Section, within 15 days after the Vendor's opportunity to file for a WIC administrative review has expired or all the Vendor's WIC administrative reviews have been completed.
- 1) Multiple violations during a single investigation:

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When during the course of a single investigation the State agency determines a vendor has committed multiple violations (which may include violations subject to State agency sanctions), the State agency shall disqualify the vendor for the period corresponding to the most serious federally mandated violation. However, the State agency shall include all violations in the notice of administrative action. If a federally mandated sanction is not upheld on appeal, then the State agency may impose a State agency-established sanction.

1100

Use---of---WIE---Authorization---by---any---unauthorized---individual---corporation---Partnership---limited---partnership---unincorporated association---Limited-bientity-Company-or-former-Vendor---who---has---improperly acquired WIE-authorization---after-the-death-of-a-Vendor---if-on---third-party---or-the-volunteer---or-invountary-disposition-of-a-Vendor---corporation---Partnership---limited-partnership---Bimited Liability-Company-and-unincorporated-association:

21) Fairshare-to-pay-the-Department-the-amount-of-any-reimbursement-due pursuant-to-Section-672-200(b):

22) Class-B-Varietations:

23) Substitution-of-unauthorized-foods---not---specified---on---the---Food-Instruments-or-WIE-Food-First:

24) Fairshare---to-maintain-the-minimum-required-quantity-size-and-type-of-WIE-infant-formula-as-identified-in-the-Minimum-Supply-of-WIE-Foods---and---specified---in---the---WIE-Vendor-Contract---(See---the definition-of-Minimum-Supply-of-WIE-Foods-in-Section-672-100-7)

25) Requiring---Participant---to-select-a-different-type-or-brand-of-WIE-Foods-when-not-specified-on-the-Food-Instrument:

26) Accepting-any-remuneration-for-the-difference-between-the-maximum value-of-the-Food-Instrument-and---the---sheif---price---of---the---WIE-Foods:

27) Having-any-expired-WIE-Food(s)-on-the-shelf---(See-Section-672-100-4)

28) Refusing---to---allow---Participants---proxies---or---Department-Representatives-to-take-all-food-items-listed---on---the---Food-Instrument:

29) Not-posting-the-sheif-price---for---WIE-Foods---if---no-price---is-posted-then-for-purposes-of-this-Section-the-Posted-Unit-Price-shall-be-deemed-to-be-the-average-price-for-a-particular-food-based-on-the-Retail-Vendor-Price-Surveys---performed---pursuant---to-this-Part-for-stores-of-like-size-and-location:

30) The-possession-the-display-on-the-sheif-in-the-Vendor-site---the-attempted-sale-or-actual-sale-of-food-products---which---originated-from-the-WIE-Food-Sellers---or-the-commodity-Supplemental-Food

31) Submission-of-false-financial-information-provided-to-the-Department-on-the

32) More-than-the-Posted-Unit-Price---for-WIE-food-items---excess---of-those-listed-on-the-WIE-Food-Instrument:

33) Fairshare---to-maintain-the-minimum-required-quantity-size-and-type-of-WIE-Foods-as-identified-in-the-Minimum-Supply-of-WIE-Foods---and-specified-in-the-WIE-Vendor-Contract---(See-Definition-of-Minimum-Supply-of-WIE-Foods---in---Section-672-100-7)

34) Charging-the-WIE-Program-for-WIE-Foods---provided-in-excess-of

35) Fairshare---to-maintain-the-minimum-required-quantity-size-and-type-of-WIE-Foods-in-at-least-three-WIE-Foods-as-identified-in-the-Minimum-Supply-of-WIE-Foods---and-specified-in-the-WIE-Vendor-Contract---(See-Definition-of-Minimum-Supply-of-WIE-Foods---in---Section-672-100-7)

36) Submission-of-false-erroneous-or-inaccurate-information-in-the

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the--Retail--Vendor--Price--Survey--or--during--the--course--of--inspections--of--the--Vendor--Site;

337 Reusing--to--allow--the--Department--access--to--inspect--the--Vendor--Site--during--normal--business--hours;

338 Submission--of--a--Federal--Employee--Identification--Number--(FEIN) for--the--Business--Entity--operating--as--a--Vendor--which--differs--from--the--FEIN--filed--for--the--same--Business--Entity--with--the--USBA--Food Stamp--Program--or--with--the--Illinois--Department--of--Revenue;

339 Failure--to--benefit--the--terms--of--the--WIC--Vendor--Contract;

340 The--salary--lessee--assignment--transfers--or--discontinuation--of--the Business--Entity--or--moving--the--Business--Entity--to--a--new--location or--new--address--without--notice--to--07--and--approval--of--07--the--Report--Department;

341 Use--of--WIC--authorization--by--any--unauthorized--individual--corporation--or--partnership--limited--partnership--unincorporated association--limited--biaction--Company--or--former--Vendor--who--has--improperly--acquired--WIC--Authorization--after--the--death--of--a--Vendor--to--benefit--an--individual--or--the--voluntary--or--involuntary--dissolution--of--a--Vendor--corporation--partnership--limited--partnership--Bimited--Bimite--Company--and--unincorporated--association;

342 Failure--to--pay--the--Report--the--amount--of--any--reimbursement--due--pursuant--to--Section--672--200(f)(b);

343 Substitution--of--unauthorized--foods--not--specified--on--the--Food Instruments--or--WIC--Food--Bites;

344 Failure--to--maintain--the--minimum--required--quantity--size--and--type of--WIC--infant--formula--as--identified--in--the--Minimum--Supply--of--WIC Foods--and--specified--in--the--WIC--Vendor--Contract--(See--the--definition--of--"Minimum--Supply--of--WIC--Foods"--in--Section--672--200--1--Requiring--a--Participant--to--select--a--different--type--or--brand--of--WIC--Foods--when--not--specified--on--the--Food--Instrument;

345 Altering--or--submitting--for--payment--altered--Food--Instruments;

346 Accepting--any--remuneration--for--the--difference--between--the--maximum value--of--the--Food--Instrument--and--the--shelf--price--of--the--WIC Foods--Having--any--expired--WIC--Food(s)--on--the--shelf--(See--Section--672--100--4--Expired--Food--);

347 Reusing--to--allow--Participants--proxies--or--Department--Representatives--to--take--all--food--items--listed--on--the--Food Instrument;

348 Not--posting--the--shelf--price--for--WIC--Foods--if--no--price--is--posted--then--for--purposes--of--this--Section--the--Posted--shelf--Price--shall--be--deemed--to--be--the--average--price--for--a--particular--food--based--on--the--Retail--Vendor--Price--Surveys--performed--pursuant--to--this--Party--for--stores--of--like--size--and--location;

349 The--possession--the--display--on--the--shelf--in--the--Vendor--site--the--attempt--sale--or--actual--sale--of--food--products--which--originated--from--the--WIC--Food--Centers--or--the--Commodity--Supplemental--Food

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Program-(ESPP):
10) Acceptance--of--WIC--Food--Instrument(s)--that--is--signed--by--a Participant--a--Proxy--or--a--Representative--before--the total--actual--cost--is--filled--in--by--the--Vendor-

c) Class-C-Violations:
11) Exchanging--cash--or--credit--for--Food--Instruments--without-a--valid WIC-Retail Vendor Contract-

2) Exchanging--alcoholic-beverages--food--or--non-food--item--for--WIC Food--Instruments--without-a--valid WIC-Retail--Vendor--Contract-

3) Exchanging--WIC--Food--Instruments--for--cash--credit--or--favors without-a--valid--WIC-Retail--Contract:

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.510 State Agency WIC Vendor Sanctions

a) State Major Violations

State major violations are violations which, in the determination of the Department, could result in harm to WIC Participants or the WIC Program. The following shall be considered major violations.

1) Failure to maintain the minimum required quantity, size and type of foods in at least three WIC Foods identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract. (See definition of "Minimum Supply of WIC Foods" in Section 672.100.)

2) Any violation of Section 672.450.

3) Accepting any remuneration for the difference between the maximum value of the Food Instrument and the shelf price of the WIC Foods.

4) Having an expired WIC Food(s) on the shelf. (See Section 672.100 "Expired Food".)

5) Submission of a Federal Employers Identification Number (FEIN) for the business entity operating as a vendor which differs from the FEIN filed for the same business entity with the USDA Food Stamp Program or with the Illinois Department of Revenue.

6) Submission of false, erroneous or inaccurate information in the business or financial information provided to the Department, on the Retail Vendor Price Survey, or during the course of inspections of the Vendor Site.

7) Refusing to allow the Department access to investigate the Vendor Site during normal business hours.

8) Violation of a term of the WIC Vendor Contract.

9) Use of WIC Authorization by an unauthorized individual, corporation, partnership, limited partnership, unincorporated association, Limited Liability Company or former vendor (if an individual), or the voluntary or involuntary dissolution of a vendor corporation, partnership, limited partnership, Limited

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Liability Company or unincorporated association.
10) Failure to pay the Department the amount of any reimbursement or fine due.

11) Submitting false, erroneous or inaccurate information on the application of a WIC Retail Vendor Contract.

12) Violation of the WIC Vendor Management Act or this Part, or of the federal statutes and regulations regarding the WIC Vendor Program.

13) Charging WIC customers more for food than non-WIC customers or charging more than the current shelf or contract price.

14) Receiving, transacting and/or redeeming Food Instruments outside of authorized channels, including the use of an unauthorized vendor and/or unauthorized person.

15) Charging for supplemental food not received by the participant.

16) Providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 USC 82, in exchange for Food Instruments.

17) Providing unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the Food Instrument.

b) State Minor Violations:

State minor violations are violations which are administrative in nature and may impose less harm to Participants or the program. The following shall be considered minor violations.

1) Failure to maintain the minimum required quantity, size and type of WIC infant formula as identified in the Minimum Supply of WIC Foods and specified in the WIC Vendor Contract. (See definition of "Minimum Supply of WIC Foods" in Section 672.100.)

2) Requiring a Participant to select a different type or brand of WIC Foods when not specified on the Food Instrument.

3) Altering or submitting for payment altered Food Instruments.

4) The possession, the display on the shelf in the Vendor Site, the attempted sale or actual sale of food products which originated from the WIC Food Centers or the Commodity Supplemental Food Program.

5) Acceptance of WIC Food Instrument that is signed by a Participant, a proxy or a Department Representative before the total actual cost is filled in by the Vendor.

6) Not posting the shelf price for WIC Foods. If no price is posted, then for the purposes of this Section, the Posted Shelf Price shall be deemed to be the average price for a particular food based on the Retail Vendor Price Surveys performed pursuant to this Part, for stores of like size and location.

c) Sanctions:

1) For each major violation a vendor shall receive:
a) A fine assessment of \$1000 or 10% of the vendor's monthly average redemptions for the 12 months preceding the advance

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notification regarding the sanction; and

Either:

i) Disqualification from the WIC Program for 1 to 3 years; or

ii) Probationary status within the WIC Program.

2) For each minor violation a Vendor shall receive:

A) A fine assessment of \$500 or 5% of the Vendor's monthly average redemptions for the 12 months preceding the advance notification regarding the sanction; and

B) Probationary status within the WIC Program.

3) Multiple violations shall result in a cumulative fine assessment.

The cumulative sanction imposed shall be determined based on the nature and seriousness of the combined violations, the extent of potential harm to WIC clients and the program, and the deterrent effect for the vendor and other vendors. The maximum fine shall be no more than the limits set forth in 7 CFR 246.12(k)(2)(i).

4) All fine assessments shall be paid within 30 calendar days from the date of the Secretary's advance notification of administrative action or order, by cashier's check or certified money order in United States currency. If the vendor fails to pay any fine assessed within 30 calendar days from the date of the Secretary's advance notification or order, the Department shall disqualify the vendor from participation in the WIC Program until the fine is paid, and an additional fee of \$1,500 shall be required to reinstate vendor authorization.

d) Participant Access Determinations:

1) Prior to disqualifying a vendor for a state major violation the department shall determine if disqualification of the vendor would result in inadequate participant access.

2) When making participant access determinations, the department shall consider, at a minimum, the availability of other authorized vendors within the same area as the violative vendor and any geographical barriers to using such vendors.

e) A vendor remaining in the program shall provide certification that the situation giving rise to the violation has been corrected, with documentation regarding the correction as requested by the department.

Any class-A violation shall subject a vendor to the following sanctions:

1) Termination from the WIC Program for a period of three years; and

2) A fine assessment of \$1,500; and

3) Reimbursement to the Department for any overcharges, charges, for items not received, monies paid for products not authorized as WIC foods, and monies paid for food instruments accepted without a valid contract.

b) Any class-B violation shall subject a vendor to the following sanctions:

1) A fine assessment of \$7,000; and

2) Certification that situation giving rise to the violation has

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been corrected;

e) Any class-C violation shall subject the violator to the following sanctions:

1) A fine assessment of \$2,500 per violation; and

2) Reimbursement to the Department for the "Actual-Dollars"--Amount of --Sale-- indicated on --Food-- Instruments--submitted--to--the Department's--contract--bank--or--the--total--amount--which--was credited or paid by the Department's contract bank to the former vendor--individual--Business--Entity--or--commercial--enterprise?

and

Any individual who held any ownership interest in the violator shall be prohibited from applying to become an authorized WIC Retail Vendor for a period of three years.

d) All fine assessments shall be paid within 30 calendar days from date of final order by cashier certified check or money order in United States currency; if the fine assessment is not received by the Department within 30 calendar days from the date of the final order any collection fees and any other costs associated with the collection of the fine assessment shall be paid in addition to the fine.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.515 Vendor Rights Regarding Notice and Appeal Criteria--for Termination-of-Suspension-of-Authorization--Prohibition--and/or Fine-Assessment

a) Prior Warning:

The Department is not required to provide the vendor with prior warning that violations were occurring before imposing sanctions pursuant to Section 672.505 or 672.510, or repudiating the agreement pursuant to Section 672.520.

b) Advance Notification:

1) The Department may take adverse action against a vendor after providing 15-day advance notification, except that permanent disqualifications under Section 672.505(a) shall be effective on the date of receipt of notice of the administrative action.

2) The written notification shall state the cause for the administrative action, its effective date and the procedures to file for an appeal of the action.

3) The written notification shall be signed by the Secretary of the Department or his designee, and his decision thereon may only be reversed by a subsequent decision or order by the Secretary or his designee pursuant to a hearing or settlement agreement.

c) Appealable Actions:

The vendor may appeal the Department decision to disqualify or otherwise sanction a vendor during the course of its agreement or contract with the Department, or to deny a vendor's application. The following are not appealable by way of administrative review:

Any class-B violation shall subject a vendor to the following sanctions:

1) A fine assessment of \$7,000; and

2) Certification that situation giving rise to the violation has

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1) expiration of a Vendor contract or agreement;

2) the Department's determinations regarding Participant Access, or disqualification of a Vendor as a result of disqualification from the Food Stamp Program.

a) A-determination-by-the-Secretary-to-terminate-Authorization-and-impose a-fine-assessment-shall-be-based-upon-a-finding-that-one-(i)-or-more-of-the-following-criteria-are-meet:

i) the-Vendor-has-not-meet-one-(i)-or-more-requirements-of-the-USBA-WIC-Regulations-or-the-Act-or-the-provisions-of-this-Part;

ii) the-Vendor--has--submitted--falsey--erroneous--or--inaccurate information-on-the-Application--in--the--business--or--financial information--provided--to--the--Department--on--the--Retail-Vendor Price-Survey--or--during--the--course--of--the--Vendor Survey;

iii) the-Vendor--has--been--found--by--the--Department--to--have--violated provisions-of-Section-672.505(f);

iv) the-Vendor--has--submitted--a--Federally--Employers--Identification Number-(FEIN)-for--the--Business--Entity--operating-as-a-Vendor-which differs-from-the-PEIN-filed-for-the-same-Business-Entity-with-the USBA--Food--Stamp--Program--or--with--the--Illinois--Department--of Revenue;

v) the-Vendor--has--not--fulfilled--the--terms--of--the--WIC--Vendor Contract; or

vi) any--person-with-an-ownership-interest-of-thirty-percent-(30%)--or more-in-any-entity-authorized-as-a-WIC-Retail-Vendor-who-has-been convicted-of-criminal-activity-in-connection-with--the--USBA--WIC Program.

b) A-determination-by-the-Secretary-to-impose-a-fine--shall-be-based-upon a-finding-that-a-Vendor-has-been--found--by--the--Department--to--have violated-provisions-of-Section-672.505(b);

c) A-determination-by--the--Secretary--to--prohibit--Vendor--activity--and impose-a-fine--shall--be--based--upon--the--finding--that--a--former--Vendor individual--Business--Entity--or--commercial--enterprise--violated provisions-of-Section-672.505(c); or--engaged--in--the--activities--of--a--WIC Vendor--(See--Section-672.510(c))

d) A-determination-by--the--Secretary--to--prohibit--Vendor--activity--shall--be based--upon--a--finding--that--the--Vendor--failed--to--provide--any--information as--specified--in--USBA-WIC-regulations--the--Act--or--the--provisions--of this--Part--which--shall--be--deemed--a--material--breach--of--contract-

e) If--the--Vendor--fails--to--pay--any--fine--assessed--under--this--Part--within thirty--(30)--calendar--days--from--the--date--of--the--final--order--of--the Department--shall--suspend--the--Vendor--and--an--additional--fine--of \$17500--00--shall--be--equated--to--the--terminal--or--suspension--of--a WIC--Vendor--s--Authorization--prohibition--of--activity--and/or--imposition of--fine--assessment--to--occur--the--Department--shall--notify--the Vendor--individual--Business--Entity--or--commercial--enterprise--that engages--in--WIC--Vendor--activities--The--notice--shall--be--in--writing--and

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shall--include:

i) A--statement--of--the--nature--of--the--basis--for--the--adverse--actions--the--statement--shall--include--a--citation--to--the--provisions--of--the USBA-WIC-Regulations--the--Act--or--this--Part--on--which--the--sanction is--based;

ii) A--description--of--the--right--of--the--Vendor--individual--Business Entity--or--commercial--enterprise--to--apply--the--adverse--action--and the--right--to--a--hearing;

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS

Section 672.600 Hearings

To appeal an appealable action as set forth in Section 672.515(c) Any--sanctions imposed--pursuant--to--Section-672.225--or--672.510--of--this--Part--shall--afford the adversely affected party shall request the--opportunity--to--appeal--the--action--by requesting a hearing within 15 calendar days after receipt of the advance notice notice. The hearing Notices-issued-and-hearings-held shall be in accordance with 89 Ill. Adm. Code 508, with the addition of the following provisions:

a) An administrative hearing must be requested within 15 calendar days after receipt of notice. Failure to request a hearing within this time frame shall constitute a waiver of the person's right to an administrative hearing.

b) The burden of proof rests with the Department in relation to all administrative actions initiated by the Department pursuant to Section 672.510.

c) The burden of proof rests with the Applicant as to all administrative actions initiated upon a petition for hearing filed by an Applicant after the denial of Authorization under Section 672.225, and with the vendor in requests for hearing upon repudiation of contracts under Section 672.520.

d) The Secretary or his designee shall be the final decision-maker in the administrative hearing.

e) The advance written notification set forth in Section 672.515(b) is not an "Emergency Action" for purposes of 89 Ill. Adm. Code 508.40.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 672.610 Appearance and Representation of a Party

The--provisions--of--Section--1807--of--the--Rules--of--Practice--and--Procedure--in Administrative Hearings--477--Title--Admin--Code--1807--shall--not--apply--to--proceedings

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under this Party-but-shall-be-replaced-by-the-following-provisions:

a) A party may be represented by an attorney who is licensed to practice law in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:

- 1) the name, address and telephone number of the attorney;
- 2) the name and address of the party represented; and
- 3) an affirmative statement indicating that the attorney is licensed to practice law in Illinois.

b) An attorney--licensed--to--practice--law may withdraw from representation ~~employment-as-a-representative~~ only upon written notice to the Department stating the reasons for withdrawal and consistent with the Code of Civil Procedure [735 ILCS 5/4-108]. Such withdrawal shall require an appropriate ruling by the Administrative Law Judge.

c) A sole proprietor who is authorized as a WIC Retail Vendor or former Vendor, or any person or entity engaged in the activity of a WIC Vendor may appear and be heard on his own behalf.

d) A corporation or association which is authorized as a WIC Retail Vendor or was authorized as a former Vendor, or any person or entity engaged in the activity of a WIC Vendor shall appear and be heard only by an attorney licensed to practice in the State of Illinois.

e) A partnership or limited partnership authorized as a WIC Retail Vendor or that was authorized as a former Vendor, or any person or entity engaged in the activity of a WIC Vendor may appear and be heard by any partner, upon presentation to the Department of written authorization from all partners authorizing him to act in a representative capacity.

f) A Limited Liability Company authorized as a WIC Retail Vendor or that was authorized as a former Vendor, or any persons or entity engaged in the activity of a WIC Vendor, shall appear and be heard only by an attorney licensed to practice in the State of Illinois.

g) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.

h) Each party to a proceeding who appears before the Department either in person or by counsel, shall inform the Department in writing or upon the record of the address at which any notice or other document may be served upon him or her in such proceeding. All further service may be made by regular mail unless otherwise required by statute or rule.

i) Attorneys shall be presumed unless disputed in the record. Service shall be presumed unless disputed in the record.

1) Attorneys appearing before the Department shall conform their conduct to the Illinois Code of Professional Responsibility, effective December 1989, and as amended. Any failure to behave in a manner which permits the efficient functioning of the hearing will authorize the Administrative Law Judge to take the following actions:

- 1) Limitation of evidence;
- 2) substitution of written argument in place of oral argument; or
- 3) exclusion of an attorney from the proceeding.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Marriage and Family Therapy Licensing Act

2) Code Citation: 68 Ill. Adm. Code 1283

3) Section Numbers:

Proposed Action:	Section Number:
Amendment	1283.20
Amendment	1283.30
Amendment	1283.45
New Section	1283.46
Amendment	1283.50
Amendment	1283.60
Amendment	1283.90
Amendment	1283.95
Amendment	1283.110

4) Statutory Authority: Marriage and Family Therapy Licensing Act [225 ILCS 55]

5) A Complete Description of the Subjects and Issues Involved: Public Act 91-362, effective January 1, 2000, created the category of associate marriage and family therapist; these amendments implement that statutory change. Various clean-up and technical changes are also included.

6) Will these proposed amendments replace emergency rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Jean A. Courtney
Department of Professional Regulation
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813; Fax: 217/782-7645

All written comments received within 45 days of this issue of the Illinois Register will be considered.

12) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing marriage and family therapy services.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Marriage and family therapy skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

Section	1283.10	Application for a Temporary License (Repealed)	Under Section 50 of the Act
1283.15	Professional Work Experience		
1283.20	Clinical Experience		
1283.25	Clinical Supervision		
1283.30	Education		
1283.40	Examination		
1283.45	Application for a License as an Associate Marriage and Family Therapist		
1283.46	Application for Examination/Licensure for an Individual Licensed as an Associate Marriage and Family Therapist		
1283.50	Application for Examination/Licensure		
1283.60	Endorsement		
1283.70	Renewal		
1283.80	Inactive Status		
1283.90	Restoration		
1283.95	Fees		
1283.100	Professional Conduct		
1283.110	Continuing Education		
1283.120	Granting Variances		

AUTHORITY: Implementing the Marriage and Family Therapy Licensing Act [225 ILCS 55] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 18 Ill. Reg. 10752, effective June 28, 1994; amended at 20 Ill. Reg. 12006, effective August 27, 1996; amended at 22 Ill. Reg. 3883, effective February 5, 1998; amended at 22 Ill. Reg. 16482, effective September 3, 1998; amended at 24 Ill. Reg. _____, effective _____.

Section 1283.20 Clinical Experience

An applicant for a license as a marriage and family therapist shall, following receipt of the first qualifying education degree, complete at least 1,000 hours of face-to-face client contact with individuals, couples and families for the purpose of evaluation and treatment of mental, emotional, behavioral and interpersonal disorders and psychopathology. At least 350 hours of the 1,000 hours of face-to-face client contact must involve working with only one client present in therapy sessions, and at least 350 hours of the 1,000 hours of

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face-to-face client contact must involve conjoint therapy, i.e., working with two or more clients present in therapy sessions who are in significant relationships with each other outside the therapy context. The applicant shall be supervised as defined in Section 1283.25 ~~±203-22~~ of this Part during the whole period the applicant is accumulating clinical experience.

a) Clinical experience in the practice of marriage and family therapy may be gained by providing treatment that includes, but is not limited to:

- 1) Individual and conjoint therapy;
- 2) Counseling;
- 3) Psychotherapy;
- 4) Assessment and treatment of mental, emotional, behavioral and interpersonal disorders and psychopathology;
- 5) Behavior modification;
- 6) Hypnotherapy;
- 7) Sex therapy;
- 8) Consultation;
- 9) Client advocacy;
- 10) Crisis intervention;
- 11) Testing and evaluation;
- 12) Group therapy;
- 13) Multi-family therapy;
- 14) Psychoeducation; and
- 15) Therapy with children and adolescents.

b) Marriage and family therapy treatment shall include, but not be limited to, providing mental health services for the evaluation and treatment of mental, emotional, behavioral and interpersonal disorders and psychopathology, including making clinical assessments, certifying diagnoses, prescribing treatment and signing off on treatment plans for persons with mental illnesses or other clinical disorders.

c) The use of specific methods, techniques or modalities within the practice of marriage and family therapy is restricted to marriage and family therapists appropriately trained in the use of such methods, techniques or modalities.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1283.30 Education

a) An applicant for a license as a marriage and family therapist shall hold one of the following:

- 1) A master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution;
- 2) A master's or doctoral degree from a regionally accredited educational institution (by the U.S. Office of Education) in a related field (i.e., behavioral science or mental health) with an equivalent course of study in marriage and family therapy as set forth in subsection (b); or

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3) A master's or doctoral degree from a program accredited by the commission on accreditations for marriage and family therapy education of the American Association for Marriage and Family Therapy.

b) Prior to or on December 31, 1999, an applicant must have completed a minimum of 36 semester hours or 48 quarter hours of graduate coursework. Beginning January 1, 2000, an applicant must have completed a minimum of 48 semester hours or equivalent hours of graduate coursework. The applicant's graduate coursework, at a minimum, shall be substantially equivalent to the curriculum listed below. Courses are evaluated according to course content rather than course title. Course descriptions and syllabi are required for courses whose titles do not reflect the content described below:

- 1) Marital and Family Studies. Topics in marriage and family studies must be addressed in a minimum of 3 courses (9 semester or 12 quarter hours or equivalent). Topics that may be counted toward this area of study include family development and family interactional patterns across the life cycle of the individual as well as the family. Courses may include the study of: family life cycle; theories of family development; marriage and/or family dynamics; sociology of the family; families under stress; the contemporary family; social, cultural, and spiritual foundations of family life; the cross-cultural family; gender studies; youth/adult/aging and the family; family subsystems; interpersonal relationships (marriage, parenting, sibling).
- 2) Marital and Family Therapy. Topics in marriage and family therapy must be addressed in a minimum of 3 courses (9 semester hours or 12 quarter hours or equivalent). The following topics must be covered:
 - A) overview of major clinical theories of marital and family therapy that offer conceptualizations and methods for working conjointly with two or more clients present in therapy sessions who are in significant relationships with each other outside the therapy context. These clinical theories shall include those in major textbooks in marriage and family therapy, such as: communication, contextual, experiential, object relations, strategic, behavioral, structural, systemic, transgenerational; assessment and evaluation of individuals (children, adolescents, and adults), couples and families;
 - B) treatment and intervention methods for working with individuals (children, adolescents and adults), couples, families and groups in therapy;
 - C) assessment and treatment of mental, emotional, behavioral and interpersonal disorders and psychopathology, including making clinical assessments, certifying diagnoses, prescribing treatment and signing off on treatment plans for persons with mental illnesses or other clinical disorders.
 - D) prescribing treatment and signing off on treatment plans for persons with mental illnesses or other clinical disorders;

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E) assessment and treatment of substance abuse, domestic violence and sexual disorders;

F) crisis intervention.

The coursework in this subsection (b)(2) must balance methods for working individually (one client in a therapy session), and for working conjointly with at least two clients present in therapy sessions who are in significant relationships with each other outside the therapy context, and must include methods for working with groups.

3) Human Development. Topics in human development must be addressed in a minimum of 3 courses (9 semester hours or 12 quarter hours or equivalent). Topics that may be counted toward this area of study include: Human development; lifestyle and career development; personality theory; testing and evaluation; and human sexuality. Coursework must cover the topics of psychopathology and behavior disorders.

4) Professional Studies and Ethics. Topics in professional studies must be addressed in a minimum of 1 course (3 semester hours or 4 quarter hours or equivalent). Topics that may be counted toward this area of study include: Professional socialization and the role of the professional organization; legal responsibilities and liabilities; independent practice and interprofessional cooperation; ethics; family law; unique professional and ethical situations involved with conjoint therapies.

5) Research. Topics in research must be addressed in a minimum of 1 course (3 semester hours or 4 quarter hours or equivalent). Topics that may be counted toward this area of study include: Research design and methods; statistics; research in a mental health field.

6) Clinical Practicum/Internship. (300 hours)--15 hours per week, approximately 8-10 hours in face-to-face contact with individuals, couples and families for the purpose of assessment, diagnosis and treatment.

c) While the required number of courses in marriage and family studies, marriage and family therapy, and human development can be met in a variety of ways, it is mandatory that the following topics be covered:

1) overview of major clinical theories of marital and family therapy that offer conceptualizations and methods for working conjointly with two or more clients present in therapy sessions who are in significant relationships with each other outside the therapy context. These clinical theories shall include those in major textbooks in marriage and family therapy, such as: communications, contextual, behavioral, experiential, object relations, strategic, structural, systemic, and transgenerational;

2) assessment and evaluation of individuals (children, adolescents and adults), couples and families;

3) treatment and intervention methods for working with individuals

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(children, adolescents, and adults), couples, families and groups in therapy;

4) assessment and treatment of mental, emotional, behavioral and interpersonal disorders and psychopathology;

5) assessment and treatment of substance abuse, domestic violence and sexual disorders;

6) crisis intervention; and

7) psychopathology and behavior disorders.

d) In evaluating coursework from another jurisdiction, the Board may require documentation such as, but not limited to, an evaluation by a foreign equivalency documentation service indicating that the applicant's graduate program is equivalent to a graduate program in this country.

e) An individual who has taught a graduate level course in a regionally accredited educational institution in any of the areas listed in subsection (c) above shall receive credit for the course. One course taught is equivalent to one course taken. Repetitive teaching of the same course may only be counted as one course... Syllabi and reading lists shall be submitted in order to obtain credit.

f) Courses taken at a post-degree institution may count as equivalent for an education requirement of subsection (c), if the institution's training program is accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or meets the following requirements:

1) The institution's program is established to achieve coherent mission and training objectives and the program has as its primary objective the training of marriage and family therapists.

2) The specific course submitted as equivalent to those defined in subsection (b) is taught by faculty who hold graduate degrees and are trained and credentialed in the field in which they teach.

3) Courses must be offered by an established, identifiable facility

4) Courses must be ongoing and additive (offered at the same place over a specific period of time and available on an ongoing basis) or offered off site by an acceptable post degree institution with an established, identifiable home-base facility or agency.

5) Courses must include outlines, clear description of content, appropriate bibliography, and other indications or meet generally acceptable criteria for academic offerings.

6) Correspondence courses are not acceptable.

g) Credit for courses taken pursuant to subsection (f) above will be given on a semester-hour equivalency basis which is 15 classroom hours per semester credit. Evaluation of course work is on a case-by-case basis for each applicant. To receive credit, an applicant must submit a syllabus for each course, proof of acceptable completion of the course, and all documentation necessary to demonstrate that the post-degree institution and the specific course meet all the requirements of subsection (f).

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h) A thesis or dissertation completed as a requirement of the first qualifying degree will not be counted as equivalent for an education requirement of subsection (b).

i) Applicants who hold non-clinical qualifying degrees, or whose practicum/internship was in areas other than marriage and family therapy, may document the practicum requirement with their first 300 post-graduate client contact hours supervised by an American Association for Marriage and Family Therapy Approved Supervisor, supervisor-in-training or a supervisor who meets the requirements set forth in Section 1283.21 of this Part.

j) Approved Comprehensive Programs of Study in Marriage and Family Therapy. The Department, upon recommendation of the Board, shall approve Comprehensive Programs of Study in Marriage and Family Therapy that meet the following requirements:

- 1) The program is offered by an educational department or unit that grants master's or doctoral degrees in marriage and family therapy or in a related field (i.e., behavioral science or mental health), and the educational institution is regionally accredited.
- 2) The program has a faculty responsible for the program and has a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have degrees in their area(s) of teaching from professional colleges and institutions.
- 3) The education unit or department has an identifiable body of students who are matriculated in that program for a degree.
- 4) A marriage and family therapist is responsible for the program.
- 5) The program shall be at least 2 academic years in length at a minimum, and require a minimum of 48 semester hours or equivalent hours of graduate coursework.
- 6) The program shall contain the curriculum listed in subsections (b) and (c) of this Section.

k) Reevaluation of an Approved Comprehensive Program of Study in Marriage and Family Therapy.

- 1) The Department may reevaluate any program at any time if it has reason to believe that the program has failed to continue to satisfy the minimum requirements of this Section or that its decision was based upon false, deceptive or incomplete information.
- 2) The program whose approval is being reevaluated by the Board shall be given at least 15 days written notice prior to any recommendation by the Board and may either submit written comments or request a hearing before the Board.
- 3) Every year the faculty person responsible for the program will send the Department an annual report specifying the faculty persons responsible for monitoring student compliance with the program requirements and any changes from the original application in how the program is accomplishing the requirements in subsection (f) including changes in curriculum and/or faculty.

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1) The Department, upon the recommendation of the Board, has determined that marriage and family therapy programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy as of July 1, 1998, meet the minimum criteria set forth in this Section and are, therefore, approved.

Section 1283.45 Application for a License as an Associate Marriage and Family Therapist

a) An applicant for a license as an associate marriage and family therapist shall file an application, on forms supplied by the Department, that includes the following:

- 1) Verification, on forms provided by the Department, that the applicant has completed the education requirements defined in Section 1283.30 and holds one of the following:
 - A master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution;
 - A master's or doctoral degree from a regionally accredited educational institution in a related field (i.e., behavioral science or mental health) with an equivalent course of study in marriage and family therapy as set forth in Section 1283.30(b) and (c); or
 - A master's or doctoral degree from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy.
- 2) A complete work history since graduation from a master's program.
- 3) The required license fee set forth in Section 1283.95.

b) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:

- 1) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license.
- 2) A description of the examination in that jurisdiction; and
- 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

c) A license as an associate marriage and family therapist shall be valid for 5 years. The license may not be renewed.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain the relevance

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or sufficiency, clarify information or clean up any discrepancies or conflicts in information.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 1283.46 Application for Examination/Licensure for an Individual Licensed as an Associate Marriage and Family Therapist

a) An individual holding a license as an associate marriage and family therapist who is applying for examination/licensure as a marriage and family therapist shall file an application, on forms supplied by the Department, at least 90 days prior to an examination date. The application shall include:

- 1) Verification, on forms provided by the Department, signed by an employer or supervisor that following the receipt of the first qualifying degree, the applicant obtained at least 3000 hours of work experience as defined in Section 1283.15. If the applicant is self employed, the applicant shall submit 3 affidavits from peers, clients or colleagues familiar with the applicant's work.
- 2) Verification of at least 200 hours of clinical supervision as defined in Section 1283.25;
- 3) Verification of at least 1000 hours of clinical experience pursuant to Section 1283.20;
- 4) A complete work history since issuance of the license as an associate marriage and family therapist;

5) The fee set forth in Section 1283.95(a)(1);
 6) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;

B) A description of the examination in that jurisdiction, and
 C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) An applicant who has taken and passed the examination in another jurisdiction shall have the examination submitted to the Department directly from the testing service.
 c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary, and/or
- 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clean up any discrepancies

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or conflicts in information.

(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 1283.50 Application for Examination/Licensure

a) An applicant for examination shall file an application, on forms supplied by the Department, at least 90 days prior to an examination date. The application shall include:

- 1) Verification, on forms provided by the Department, that the applicant has completed the education requirements defined in Section 1283.30 and holds one of the following:
 - A) A master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution;
 - B) A master's or doctoral degree from a regionally accredited educational institution in a related field (i.e., behavioral science or mental health) with an equivalent course of study in marriage and family therapy as set forth in Section 1283.30(b) and (c); or
 - C) A master's or doctoral degree from a program accredited by the commission on accreditations for marriage and family therapy education of the American Association for Marriage and Family Therapy.
- 2) Verification, on forms provided by the Department, signed by an employer or supervisor, that, following the receipt of the first qualifying degree, the applicant obtained at least 3000 hours of work experience as defined in Section 1283.15 of this Part. If the applicant is self employed, the applicant shall submit 3 affidavits from peers, clients or colleagues familiar with the applicant's work.
- 3) Verification of at least 200 hours of clinical supervision as defined in Section 1283.25 of this Part.
- 4) Verification of at least 1000 hours of clinical experience pursuant to Section 1283.20.
- 5) A complete work history since graduation from a master's program.
- 6) The required fee set forth in Section 1283.95(a)(1) of this Part.
- 7) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - B) A description of the examination in that jurisdiction; and
 - C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

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set forth in Section 1283.40 in another jurisdiction shall file an application in accordance with subsection (a) above and have his/her examination scores submitted to the Department directly from the testing entity.

c) In lieu of subsections (a)(1), (2), (3) and (4) above, the Department shall accept certification of clinical membership from the American Association for Marriage and Family Therapy.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clean up any discrepancies or conflicts in information.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1283.60 Endorsement

a) An applicant who is licensed/registered under the laws of another state or territory of the United States or of a foreign country and who wishes to be licensed in Illinois as a marriage and family therapist shall file an application with the Department, on forms provided by the Department, which includes:

- 1) Certification of meeting education requirements as set forth in Section 1283.30 of this Part;
- 2) Verification, on forms provided by the Department, signed by an employer or supervisor, that, following the receipt of the first qualifying degree, the applicant obtained at least 3000 hours of work experience as defined in Section 1283.15 of this Part. If the applicant is self employed, the applicant shall submit 3 affidavits from peers, clients or colleagues familiar with the applicant's work;
- 3) Verification of at least 200 hours of clinical supervision as defined in Section 1283.25 of this Part;
- 4) Verification of at least 1000 hours of clinical experience pursuant to Section 1283.20;
- 5) Certification of successful completion of the examination set forth in Section 1283.40;
- 6) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed/registered and is currently licensed/registered, stating:

A) The time during which the applicant was licensed/registered;

B) Whether the file of the applicant contains any record of

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disciplinary actions taken or pending; and

C) Examination(s) taken and examination score(s) received;

7) A complete work history since graduation from a master's program; and

8) The required fee as set forth in Section 1283.95(a)(1) of--this Part.

b) In lieu of subsections (a)(1), (2), (3) and (4) above, the Department shall accept certification of clinical membership from the American Association for Marriage and Family Therapy.

c) The Department shall either issue a license by endorsement or notify the applicant in writing of the reasons for denying the application.

d) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1283.90 Restoration

a) Any marriage and family therapist whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 1283.95 5--of the---Act and providing proof of meeting continuing education requirements during the 2 years prior to restoration.

b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, for review by the Board, together with the fee required by Section 55 of the Act and proof of meeting continuing education requirements during the 2 years prior to restoration. The applicant shall also submit either:

- 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice; or
- 2) An affidavit attesting to military service as provided in Section 45(c) of the Act; or
- 3) Proof of passage of the AMFTRB examination during the period the registration was lapsed or on inactive status.

c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such

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relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

d) Upon the recommendation of the Board and approval by the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1283.95 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees.

1) The fee for original application for a license as a marriage and family therapist is \$100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

2) The fee for a license as an associate marriage and family therapist is \$100.

3) The application fee for a license as a marriage and family therapist certified or licensed under the laws of another jurisdiction is \$200.

4) The fee for application as a continuing education sponsor is \$500. State agencies, State colleges and State universities in Illinois are exempt from paying this fee.

b) Renewal Fees.

1) The fee for the renewal of a marriage and family therapist license shall be calculated at the rate of \$60 per year.

2) The fee for renewal as a continuing education sponsor is \$125 per year.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status that has been expired for 5 years or less is \$20 plus payment of all lapsed renewal fees.

2) The fee for the restoration of a license that has been expired for more than 5 years is \$300.

3) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license which has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.

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4) The fee for a certification of a licensee's record for any purpose is \$20.

5) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20, plus any fee charged by the testing service.

6) The fee for a wall certificate showing licensure shall be the actual cost of producing the such certificate.

7) The fee for a roster of persons licensed as marriage and family therapists in this State shall be the actual cost of producing the such-a roster.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1283.110 Continuing Education

a) Continuing Education Hours Requirements

1) Beginning with the 1999 license renewal and every renewal thereafter, every licensee who applies for renewal of a license as a marriage and family therapist shall complete within the prerenewal period 30 hours of continuing education (CE) relevant to the practice of marriage and family therapy.

2) A prerenewal period is the 24 months preceding February 28 of each odd-numbered year.

3) One CE hour shall equal one clock hour.

4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

5) Marriage and family therapists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

b) Approved Continuing Education

1) Continuing education hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsection (b)(2), (3) and (4) below.

2) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of marriage and family therapy related courses that are a part of the curriculum of a college, university or graduate school of marriage and family therapy. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 hours for each quarter hour of school credit awarded.

3) CE credit may be earned for verified teaching of a course or

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program in an accredited college of marriage and family therapy in a college, university, or graduate school of marriage and family therapy approved in accordance with Section 1283.30 and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour of teaching or presenting the course or program material taught and only for the first presentation of the course, or program (i.e., credit shall not be allowed for repetitive presentations).

4) CE credit may be earned for authoring papers, publications or books and for preparing presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with marriage and family therapy may be claimed as 5 hours of credit. A presentation must be before a professional audience of marriage and family therapists. Five credit hours may be claimed for only the first time the information is published or presented.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean the American Association for Marriage and Family Therapy and any other person, firm, association, corporation or group that has been approved and authorized by the Department upon recommendation of the Board to coordinate and present continuing education courses and programs.

2) An entity seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with the fee set forth in Section 1283.95(a)(3) of this Part. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee). The application shall include:

A) Certification:

- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;
- ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9) below;
- iii) That upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;

iv) ~~that each sponsor shall submit to the Department written notice of program offerings 30 days prior to course dates. Notice shall include the description~~

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location, date and time of the program to be offered?

B) A copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of marriage and family therapy;
- B) Foster the enhancement of general or specialized work in the practice of marriage and family therapy;
- C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
- D) Specify the course objectives, course content and teaching methods to be used; and
- E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for renewal of a license.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) All programs given by approved sponsors shall be open to all marriage and family therapists and not be limited to members of a single organization or group.

7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

8) To maintain approval as a sponsor, each sponsor shall submit to the Department by February of each odd-numbered year a renewal application, the fee set forth in Section 1283.95(b)(2) of this Part and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.

9) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a

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certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

- A) The name, address and license number of the sponsor;
- B) The name address of the participant;
- C) A brief statement of the subject matter;
- D) The number of hours attended in each program;
- E) The date and place of the program; and
- F) The signature of the sponsor.

10) The sponsor shall maintain attendance records for not less than 5 years.

11) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

12) Upon the failure of a sponsor to comply with any one of the requirements of this Section, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of the sponsor's CE programs until such time as the Department receives assurances of compliance with requirements of this Section.

13) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with the requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 16 of the Illinois Administrative Procedure Act [5 IILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions.

1) If a licensee has earned CE hours offered in another state or territory not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the

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program using criteria set forth in subsection (c)(3) of this Section.

- 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$10 per CE hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
- 3) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 55(e) and (f) of the Act.
- 4) Waiver of CE Requirements
 - 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 55(d) of the Act, a statement setting forth the facts concerning non-compliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.
 - 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the site of approved programs documented by a currently licensed physician; and
 - D) Any other similar extenuating circumstance.
 - 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in a good standing until the final decision on the application is made by the Department.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Account Wagering
- 2) Code Citation: 11 Ill. Adm. Code 321
- 3) Section Numbers:
321.10
321.80
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking allows cancellations with account wagering subject to the maximum established in Section 433.20.
- 6) Will these proposed amendments replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:
Gina DiCaro
Illinois Racing Board
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601
312/814-5070
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking is a result of a request made by an organization license.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

The full text of the proposed Amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER A: GENERAL RULES

PART 321

ACCOUNT WAGERING

- Section 321.10 General
- 321.10.10 Account Opening
- 321.10.20 Refusals
- 321.10.30 Patron Information
- 321.10.40 Deposits
- 321.10.50 Sufficient Account Balance
- 321.10.70 Account Credits
- 321.10.80 Account Operation
- 321.10.90 Account Closure

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 20 Ill. Reg. 5878, effective April 15, 1996; amended at 24 Ill. Reg. _____, effective _____.

Section 321.10 General

- a) A licensee may offer a system of account wagering to its' patrons whereby wagers are debited and payouts are credited to a sum, deposited in an account by the patron, and held by the licensee. The licensee shall request authorization from the State Director of Mutuals before a system of account wagering is offered.
- b) The licensee shall notify the patron, at the time of opening the account, of any rules the licensee has made concerning deposits, withdrawals, cancellations, average daily balance, user fees, interest payments, provisions for closing accounts and any other aspect of the operation of the account. The licensee shall notify the State Director of Mutuals and the patron whenever rules governing the account are changed, such notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash in the account. The patron shall be deemed to have accepted the rules of account operations upon signature approval. Failure to accept such new rules shall result in closure of the account. **opening or-net-closing-the-account**

(Source: Amended at 24 Ill. Reg. _____, effective _____.)

ILLINOIS REGISTER

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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

Section 321.80 Account Operation

- a) The licensee shall maintain complete records of every deposit, withdrawal, wager, cancellation and winning payout for each short-term and long-term account. Voucher accounts shall be recorded in a manner similar to a ticket. These records shall be made available to the Board upon request. The Board shall request the records when there is probable cause for such a request. Examples of instances when probable cause exists include, but are not limited to, allegations of race-fixing or wagering schemes.
- b) Any account wagering system shall provide for the account holder's review and finalization of a wager before it is accepted by the licensee. **Neither-the-account-holder-nor-the-licensee-shall-change-a-wager-afters-the-account-holder-has-reviewed-and-finalized-the-wager.**
- c) Cancellation of wagers shall be permitted in short- or long-term accounts. Cancellation of wagers at automated teller machines shall be prohibited. Any cancellation of wager shall conform to the provisions of 11 Ill. Adm. Code 433.120. Licensees shall review wagering accounts daily to monitor for compliance. Violations shall be reported to the State Director of Mutuals within 48 hours after the occurrence.

(Source: Amended at 24 Ill. Reg. _____.)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Claiming Races

2) Code Citation: 11 Ill. Adm. Code 510

3) Section Numbers:
510.200
510.250

4) Proposed Action:
Amendment
New Section

5) Statutory Authority: 230 ILCS 5/9(b)

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

Gina DiCaro
Illinois Racing Board
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601
(312) 814-5070

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking is a result of requests by an organization licensee and horsemen's group.

The full text of the proposed Amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER C: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 510
 CLAIMING RACES

Section 510.10 Definition
 510.20 Claiming Eligibility
 510.30 Form and Deposit of Claim
 510.40 Errors which Invalidate Claim
 510.50 Refund of Voided Claim
 510.60 Prohibited Action with Respect to Claim
 510.70 Horses under Lien
 510.80 Affidavit May be Required
 510.90 Claimant's Responsibility
 510.100 Claimed Horse's Certificate
 510.110 Engagements of a Claimed Horse
 510.120 Protests of a Claim
 510.130 Title to a Claimed Horse
 510.140 Distribution of the Purse
 510.150 Delivery of a Claimed Horse
 510.160 Trainer Responsibility for Post-Race Tests
 510.170 Excusing Claimed Horse
 510.180 Stable Eliminated by Fire or Other Hazard
 510.190 Entering Claimed Horse (Repealed)
 510.195 Determining Eligibility Dates
 510.200 Claimed Horse Racing Elsewhere
 510.210 Sale of a Claimed Horse
 510.220 Illinois Rules Govern Claimed Horse
 510.230 Extension of Regular Meeting (Repealed)
 510.240 Claiming Authorization
 510.250 Claiming Price

AUTHORITY: Implementing and authorized by the Illinois Horse Racing Act of 1975 [230 ILCS 5].

SOURCE: Adopted at 5 Ill. Reg. 1686, effective February 16, 1981; amended at 5 Ill. Reg. 8300, effective August 5, 1981; codified at 5 Ill. Reg. 10911; amended at 7 Ill. Reg. 2167, effective February 4, 1983; amended at 7 Ill. Reg. 3197, effective March 14, 1983; amended at 8 Ill. Reg. 14992, effective August 6, 1984; amended at 14 Ill. Reg. 17636, effective October 16, 1990; amended at 17 Ill. Reg. 12423, effective July 15, 1993; amended at 17 Ill. Reg. 13612, effective July 30, 1993; amended at 18 Ill. Reg. 2064, effective January 21, 1994; amended at 18 Ill. Reg. 11607, effective July 7, 1994; amended at 19 Ill. Reg. 13887, effective October 1, 1995; amended at 20 Ill. Reg. 12473, effective

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

September 1, 1996; amended at 21 Ill. Reg. 951, effective January 7, 1997; amended at 24 Ill. Reg. _____, effective _____.

Section 510.200 Claimed Horse Racing Elsewhere

a) For harness racing, no claimed horse shall race at any other race track until the close of the race meeting at which it was claimed, or for 60 days, whichever is shorter.
 b) For thoroughbred racing, no claimed horse shall race at any other race track until the close of the race meeting at which it was claimed, or for 60 days, whichever is shorter.
 c) This Section shall not apply when claimed horses are fulfilling a stakes engagement or have the express written consent, of the race track where they were claimed, to race at another location.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 510.250 Claiming Price

For a period of 30 days after the claim of a thoroughbred horse, it shall not start in a race in which the eligibility price is less than 25% more than the price at which it was claimed.

(Source: Added at 24 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Entries and Declarations

2) Code Citation: 11 Ill. Adm. Code 1312

3) Section Numbers: 1312.265
Proposed Action:
Amendment

4) Statutory Authority: 230 ILCS 5/9(b)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is done in conjunction with the amendments to Section 306.20. This rulemaking removes the minimum betting interest prohibition with respect to uncoupling entries for trifecta races.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: No local government units will be required to increase expenditures.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking. Written comments should be submitted within 45 days of this notice to:

Gina DiCaro
Illinois Racing Board
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601
(312)814-5070

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

because: This rulemaking is a result of a request by an organization licensee. This rulemaking did not appear on a regulatory agenda.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER F: RULES AND REGULATIONS OF HARNESS RACING

PART 1312

ENTRIES AND DECLARATIONS

Section
 1312.10 Entries
 1312.20 Penalties
 1312.30 Sale of Horse With Entrance Due
 1312.40 Receipt of Entries
 1312.50 Postage Meter
 1312.60 Deviation From Published Conditions
 1312.70 When Ineligible Horse Races
 1312.80 Transfer of Ineligible Horse
 1312.90 Withholding Purse When Ineligible Horse Races
 1312.100 Early Closing and Late Closing Events
 1312.110 Subsequent Payments
 1312.120 Trust Funds
 1312.130 Stable Space
 1312.140 Limitation on Conditions
 1312.150 Penalties
 1312.160 Excess Entry Fees
 1312.170 Entries and Starters Required
 1312.180 Elimination Heats
 1312.190 Elimination Plans
 1312.200 Overnight Events
 1312.210 Entry Box and Drawing of Horses
 1312.220 Substitute Races
 1312.230 Drivers
 1312.240 Declaration and Withdrawing
 1312.250 Qualifying Races
 1312.260 Entry or Coupling
 1312.265 Uncoupled Entries
 1312.270 Husband-Wife Entries
 1312.280 Also Eligibles
 1312.290 Preference
 1312.300 Stewards' List
 1312.310 Medical Reasons for Ineligibility

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (230 ILCS 5/9(b)).

SOURCE: Published in Rules and Regulations of Harness Racing (original date not cited in publication); amended July 12, 1974, filed July 22, 1974; amended February 13, 1976, filed March 1, 1976; amended September 19, 1975, filed

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

October 2, 1975; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; amended at 5 Ill. Reg. 1498, effective February 2, 1981; codified at 5 Ill. Reg. 10934; amended at 5 Ill. Reg. 2727, effective February 5, 1991; amended at 24 Ill. Reg. _____, effective _____.

Section 1312.265 Uncoupled Entries

Any entry of separate ownership may be uncoupled with permission of the stewards. Such permission shall not be granted with respect to quinellas and exactas ~~perfectas~~ unless fields of six betting interests (five if there is a late scratch) are created. ~~In no event shall such permission be granted in any race-on-which effects-wagering-is-conducted-unless-said-race-is-a-stakes-race and-at-least-7-separate-betting-interests-start-~~

(Source: Amended at 24 Ill. Reg. _____)
 _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Entries, Subscriptions, and Declarations2) Code Citation: 11 Ill. Adm. Code 14133) Section Numbers: 1413.48
Proposed Action:
Amendment4) Statutory Authority: 230 ILCS 5/9(b)5) A Complete Description of the Subjects and Issues Involved: This rulemaking is done in conjunction with the proposed amendments to Section 306.20. This rulemaking removes the minimum betting interest requirement for uncoupling entries.6) Will this rulemaking replace any emergency amendments currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Does these proposed amendment contain incorporations by reference? No9) Are there any other proposed rulemakings pending on this Part? No10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

Gina DiCaro
Illinois Racing Board
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601
312/814-5070

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None
B) Reporting, bookkeeping or other procedures required for compliance:
None
C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

rulemaking is a result of a request for rulemaking by an organization licensee.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER 1: ILLINOIS RACING BOARD
 SUBCHAPTER 9: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1413

ENTRIES, SUBSCRIPTIONS, AND DECLARATIONS

Section 1413.10 Registration with Jockey Club
 1413.20 Registration Rules
 1413.30 Eligibility
 1413.40 How Entries are Made
 1413.42 Number of Entries
 1413.44 48- or 72-Hour Entries
 1413.46 Also Eligibles Under 48- or 72-Hour Rule
 1413.48 Uncoupled Entries
 1413.49 Racing Secretary Receives Entries
 1413.50 Supervision of Entries
 1413.60 When Entries Close
 1413.75 Limitation on Purse Reductions
 1413.80 Closing in Absence of Conditions
 1413.90 Entry by Telegraph
 1413.100 List of Entries
 1413.114 Couples As Entry
 1413.118 Further Definition of Coupling
 1413.120 Riders Designated
 1413.130 Carding Purse and Handicap Races
 1413.134 Race Fails to Fill
 1413.138 Substitute and Extra Races
 1413.140 Fight to Declare Out
 1413.150 Number of Entries
 1413.160 Fee to Enter
 1413.170 Refunds
 1413.180 Error in Entry
 1413.190 Irrevocable Declaration
 1413.200 Notice of Declaration
 1413.210 Entry of Unfit Horse
 1413.220 Refusal for Inconsistency
 1413.230 Horse Ineligible
 1413.240 Who May Enter
 1413.250 Medical Reasons for Ineligibility
 1413.260 Sweepstakes Entries
 1413.265 Receipt for Nomination
 1413.270 Previous Engagements
 1413.280 Transfer of Engagements
 1413.290 Transfer of Sweepstakes Engagements
 1413.300 Jockey Club Certificates

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1413.305 Transfer of Jockey Club Certificate
 1413.310 Number of Races in a Day

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Racing Act of 1975 (230 ILCS 5/9(b)).

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); passed July 11, 1972; amended April 11, 1974, filed and effective April 30, 1974; passed June 11, 1974; amended July 12, 1974, filed and effective July 22, 1974; amended August 13, 1974, filed August 19, 1974; amended August 15, 1975, filed August 20, 1975; amended September 19, 1975, filed October 2, 1975; amended June 19, 1976; amended July 16, 1976, filed July 23, 1976; amended August 21, 1976, filed August 30, 1976; amended April 26, 1977, filed May 6, 1977; amended at 4 Ill. Reg. 9, P. 251, effective February 20, 1980; amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10981; amended at 15 Ill. Reg. 2730, effective February 5, 1991; amended at 17 Ill. Reg. 1628, effective January 26, 1993; amended at 17 Ill. Reg. 21848, effective December 3, 1993; amended at 18 Ill. Reg. 11612, effective July 7, 1994; amended at 18 Ill. Reg. 17749, effective November 28, 1994; amended at 24 Ill. Reg. _____, effective _____.

Section 1413.48 Uncoupled Entries

Any entry of separate ownership may be uncoupled with permission of the stewards. Such permission shall not be granted with respect to quinellas and exactas perfectas unless fields of six betting interests interests (five if there is a late scratch) are created. In no event shall such permission be granted in any race on which trifecta-wagering is conducted, unless -said-race is-a-stakes-race-and-at-least-8-separate-betting-interests-start. Post time delay due to scratches is limited to ten minutes and notification of this limitation shall be published in the official program.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Trifecta
- 2) Code Citation: 11 Ill. Adm. Code 306
- 3) Section Numbers:

306.20	<u>Proposed Action:</u>
306.30	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)

5) A Complete Description of the Subjects and Issues Involved: The amendment to Section 306.20 allows entries (coupled or uncoupled) in trifecta races as long as minimum standards, such as purse level and minimum betting interests, are met. The amendment to Section 306.30 clarifies the requirement of betting interests for trifecta races.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

Gina DiCaro
Illinois Racing Board
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601
(312)814-5070

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was requested by organization licensees.

The full text of the proposed Amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER a: GENERAL RULES
 PART 306
 PART 306
 TRIFECTA

Section 306.10 Definition
 306.20 Entries and Fields
 306.30 Minimum Fields
 306.40 Pool Distribution
 306.50 Dead Heats
 306.60 Scratches

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 19 Ill. Reg. 15225, effective November 1, 1995; amended at 24 Ill. Reg. _____, effective _____.

Section 306.20 Entries and Fields

- a) Fields shall be allowed in a trifecta contest, so long as it is a stakes race with a minimum purse of \$100,000.
- b) For harness racing, only one entry, either coupled or uncoupled, shall be allowed in a trifecta race so long as it is a stakes race with a minimum purse of \$25,000 and a minimum field of eight betting interests at the start of the race. For stakes races with a minimum purse of \$50,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
 - c) For overnight thoroughbred racing, entries, either coupled or uncoupled, ~~race~~^{entry} shall be allowed in a trifecta race under the following conditions: ~~so-long-as-the-entry-is-coupled-and-at least-eight-betting-interests-are-carded~~
 - 1) one entry requires at least six betting interests at the start of the race.
 - 2) two entries require at least eight betting interests at the start of the race.
 - 3) more than two entries shall require approval from the Executive Director or the State Director of Mutuels.
- d) This Section shall not apply to races which are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)].

(Source: Amended at 24 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

Section 306.30 Minimum Fields

- a) For thoroughbred racing, trifecta wagering shall be prohibited on races with fewer than 6 betting interests at the start of the race.
- b) For harness racing, trifecta wagering shall be prohibited on races with fewer than 7 betting interests at the start of the race.
- c) This Section shall not be applicable to Stakes Races.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

(Source: Amended at 24 Ill. Reg. _____)

AUDITOR GENERAL

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Purchases and Contracts2) Code Citation: 44 Ill. Adm. Code 5003) Section Number: Adopted Action:
500.1.0 Repealed
500.20 Repealed
500.30 Repealed
500.40 Repealed
500.50 Repealed4) Statutory Authority: Implementing and authorized by Section 1-30 (b) of the Illinois Procurement Code [30 ILCS 500/1-30 (b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]5) Effective Date of Repealer: February 7, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: October 22, 1999, 23 Ill. Reg. 12841

10) Has JCAR issued a Statement of Objection to the repealer? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The current procurement rules found at 44 Ill. Adm. Code 500 are being repealed and replaced with a new set of rules to reflect the requirements of the new Illinois Procurement Code.16) Information and questions regarding this adopted repealer shall be directed to:
Rebecca Patton
Office of the Auditor General
740 E. Ash St. 217/782-6698

AUDITOR GENERAL

NOTICE OF ADOPTED REPEALER

TDD: 217/524-4646

Springfield, IL 62703

TDD: 217/524-4646

AUDITOR GENERAL

NOTICE OF ADOPTED RULES

9) Date Notice of Proposal Published in Illinois Register: October 22, 1999,
23 Ill. Reg. 12845

10) Has JCAR issued a Statement of Objections to the rules? No

11) Differences between proposal and final version:

In the heading, "SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS" was changed to "SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES".

In the heading, "STANDARD PROCUREMENT" was changed to "PURCHASES AND CONTRACTS".

The above changes were made to conform to the heading of the part being replaced.

In addition, a minor editing change recommended by JCAR was made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace an emergency rule currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Rulemaking: The rules will replace the current procurement rules found at 44 Ill. Adm. Code 500 with a new set of rules to reflect the requirements of the new Illinois Procurement Code. The rules describe procurement policies; the various methods of source selection, including the use of invitations for bids and requests for proposals; type and duration of contracts; preferences; procurement ethics; and various other elements of the procurement process.

16) Information and questions regarding these adopted rules shall be directed to:

AUDITOR GENERAL

NOTICE OF ADOPTED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER I: AUDITOR GENERAL

PART 500
PURCHASES AND CONTRACTS

SUBPART A: GENERAL

Section Title
500.10 Policy
500.20 Application
500.30 Definition of Terms Used in This Part
500.40 Property Rights
500.50 Department of Central Management Services
500.60 Capital Development Board

SUBPART B: PROCUREMENT AUTHORITY

Section Conduct of Procurements
500.100 Small Business Specialist

SUBPART C: PUBLICIZING PROCUREMENT ACTIONS

Section Auditor General Volume of Illinois Procurement Bulletin
500.200 Publication of Auditor General Bulletin
500.210 Required Use of Auditor General Bulletin
500.220 Supplemental Notice
500.230 Error in Notice
500.240 Direct Solicitation

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AUTHORITY: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12].

SOURCE: Old Part ~~1836~~ - ^{Proposed} appealed and new part adopted at 24 Ill. Reg. 1836
effective 1/1/2011.

SUBPART A: GENERAL

Section 500.10 Title

This Part may be cited as the Office of the Auditor General (OAG) Procurement Rules.

Section 500.20 Policy

All OAG procurements shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

Section 500.30 Application

- a) This Part applies to all procurements by the OAG with a solicitation date on or after the effective date of this Part with the exception of the following:
 - 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Part;
 - 2) grants;
 - 3) purchase of care;
 - 4) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
 - 5) collective bargaining contracts;
 - 6) purchase of real estate; or
 - 7) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the OAG chief legal counsel shall give his or her prior approval. Anticipated litigation is that which the OAG may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, the retention of counsel, investigators, expert witnesses and court reporters.
- b) Nothing in this Part shall be construed to affect or impair any

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contract, or any provision of a contract, entered into based on a solicitation prior to the effective date of this Part.

Section 500.40 Definition of Terms Used in This Part

As used throughout this Part, each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - The person or entity submitting a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet OAG requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalog numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Consulting Services" - Services provided by a business or person an independent contractor to advise and assist the OAG in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in this Part.

"Contract" - A contract may be in written or oral form. The term contract as used in this Part does not include supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission. The term contract includes, but is not limited to, purchase, installment purchase, lease and rental contracts.

"Contractor" or "Vendor" - The terms contractor and vendor are used interchangeably for purposes of this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" or "CMS" - The Department of Central Management Services.

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"Invitation for Bids" or "IFB" - The process by which the OAG requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

"Items" - Anything that may be procured under this Part.

"OAG" - The Office of the Auditor General.

"Offer" - A bid, proposal or response solicited by the OAG.

"Offeror" - The person or entity submitting a bid, proposal or response solicited by the OAG.

"Procurement Officer" - One or more OAG employees who serve at the direction of the Chief Procurement Officer of the OAG (CPO) and are responsible for conducting OAG procurement activity.

"Proposal" - The response to a Request for Proposals.

"Proposer" - The person or entity submitting a proposal.

"Qualified Products List" - An approved list of supplies described by model or catalog numbers that, prior to competitive solicitation, the OAG has determined will meet the applicable specification requirements.

"Request for Information" or "RFI" - The process by which the OAG requests information from offerors for OAG contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" - The process by which the OAG requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

"Respondent" - The person or entity submitting a response to a Request for Information from the OAG.

"Response" - A response to a Request for Information.

"Responsible Offeror" - A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance.

"Service" - The furnishing of labor, time, or effort by a contractor, conforming in all material respects to the solicitation.

"Service" - The delivery of a specific end product other than not involving the furnishing of labor, time, or effort by a contractor, conforming in all material respects to the solicitation.

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reports or supplies that are incidental to the required performance and the financing thereof.

"Solicitation" - An Invitation for Bids, Request for Proposals or Request for Information.

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply, service or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"Supplies" - All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.

Section 500.50 Property Rights

Receipt of a solicitation or submission of any offer confers no right to receive an award or contract, nor does it obligate the State in any manner.

Section 500.60 Department of Central Management Services

- a) To the extent practicable and available, the OAG may obtain the following goods and services from or through CMS without soliciting independent bids, proposals or responses:
 - 1) employee benefits authorized under the State Employees Group Insurance Act or other law;
 - 2) financing of any procurement;
 - 3) paper, stationery and envelopes, and any other goods or services available from the Paper and Printing Warehouse;
 - 4) postage stamps;
 - 5) property, casualty, liability and other insurance and bonds;
 - 6) telecommunications equipment, services and software;
 - 7) utilities;
 - 8) vehicles and vehicle services, including fleet management and repairs;
 - 9) electronic data processing services, including Central Computing Facility services;
- 10) leases of real estate and any capital improvements to leased real estate for OAG use; and
- 11) any other supplies and services, including those available through master, scheduled or open-ended contracts established by

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CMS.

b) The CPO may submit purchase requests to CMS in accordance with CMS rules.

Section 500.70 Capital Development Board

Any construction or construction-related professional and artistic services in excess of \$30,000 necessary for the OAG will be procured by the CPO of the Capital Development Board or of CMS. Any request for such services will be submitted to CPO-CDB or CPO-CMS in accordance with CDB or CMS rules. In the event of an emergency, the CPO may arrange for such construction as is necessary to protect the property and records of the OAG pending the making of arrangements with CDB or CMS.

SUBPART B: PROCUREMENT AUTHORITY**Section 500.100 Conduct of Procurements**

The Auditor General or his or her designee shall serve as Chief Procurement Officer (CPO) for purposes of this Part, and may conduct any or all procurements for the OAG. The CPO may appoint one or more Procurement Officers to conduct procurements on behalf of the CPO in accordance with conditions specified in the terms of the appointment and this Part.

Section 500.110 Small Business Specialist

The CPO, subject to the Auditor General's approval, may designate an OAG employee with experience negotiating contracts to serve as the Small Business Specialist.

SUBPART C: PUBLICIZING PROCUREMENT ACTIONS**Section 500.200 Auditor General Volume of Illinois Procurement Bulletin**

The Auditor General Volume of the Illinois Procurement Bulletin (Auditor General Bulletin) will contain procurement information relating to procurements under the responsibility of the OAG.

Section 500.210 Publication of Auditor General Bulletin

The Auditor General Bulletin will be published electronically and will be updated at least once per month and may be updated as frequently as daily. In the event fee is charged for subscriptions to the Auditor General Bulletin, free access to the information published in the Auditor General Bulletin will be made available at OAG offices and to interested public libraries or other sites open to the general public.

Section 500.220 Required Use of Auditor General Bulletin

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Notice of any procurement action required by this Part to be publicized will be published in the Auditor General Bulletin.

Section 500.230 Supplemental Notice

The OAG may place advertisements in the Official State Newspaper selected by CMS or other publications to supplement notice in the Auditor General Bulletin. In the event the Auditor General Bulletin cannot be published, the Official State Newspaper may be used as a substitute for the Auditor General Bulletin.

Section 500.240 Error in Notice

When a required publication contains an error, the error may be corrected by a single notice published in the Auditor General Bulletin.

Section 500.250 Direct Solicitation

In addition to giving notice in the Auditor General Bulletin, if required, the OAG may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information. No direct solicitation shall be made prior to the date any required notice first appears in the Auditor General Bulletin.

SUBPART D: SOURCE SELECTION AND CONTRACT FORMATION**Section 500.300 General Provisions**

a) **Late Offers, Late Withdrawals and Late Modifications**

- 1) **Definition.** Any offer received after the time and date for receipt, or at other than the specified location, is late. An offer that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the OAG shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of an offer received after the time and date set for opening of offers, or at other than the specified location, is late.
- 2) **Treatment.** No late offer, late modification, or late withdrawal will be considered unless the CPO, and not a designee, determines it would have been timely but for the action or inaction of OAG personnel directly serving the procurement activity (e.g., providing the wrong address).
- 3) **Records.** Records shall be made and, in accordance with OAG policy, kept for each late offer, late modification, or late withdrawal.
- 4) **Other Submissions.** Any other submission that has a time or date deadline shall be treated in the same manner as a late offer.

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b) Extension of Time

- 1) The Procurement Officer may, prior to the date or time for submitting or modifying an offer, extend the date or time for the convenience of the OAG.
- 2) After opening offers, the Procurement Officer may request offerors who submitted timely offers to extend the time during which the OAG may accept the offers, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit offers.

c) Electronic and Facsimile Submissions

- 1) The solicitation may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the solicitation.
- 2) Electronic submissions will be opened in accordance with OAG electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
- 3) Fax submissions will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit

The solicitation may require that vendors submit, by a certain time and date, a notice of their intent to submit an offer in response to the solicitation. Offers submitted without complying with the notice of intent requirement may be rejected.

e) Only One Offer Received

If only one offer is received, an award may be made to the single offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective offerors had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise:

- 1) new offers may be solicited, including under sole source (Section 500.340) or emergency (Section 500.350) procedures; or
- 2) the procurement may be canceled.

f) Alternate or Multiple Offers

- 1) Alternate offers may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 500.340 (Sole Economically Feasible Source Procurement) of this Part; or
 - C) the low offeror, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the

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specifications.

2) Multiple offers may be accepted if:

- A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
- B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

3) Multiple Items

A solicitation may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

4) "All or None" Offers

All or none offers may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

i) Conditioning Offers Upon Other Awards

Any offer that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

- 1) be rejected unless the vendor removes the condition; or
- 2) be evaluated and awarded made to that vendor if the vendor is also independently evaluated as the winner of the other solicitation provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.

j) Unsolicited Offers

- 1) Processing of Unsolicited Offers. The Procurement Officer may consider unsolicited offers.
- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the OAG.
- 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of this Part except if that unsolicited offer meets the requirements for a small (Section 500.330), sole source (Section 500.340), or emergency (Section 500.350) procurement.

k) Clarification of Offers

The Procurement Officer may request that a vendor clarify its offer as a part of the evaluation process. A vendor shall not be allowed to materially change its offer in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.

l) Supplementary Purchases

- 1) Supplementary purchases will be permitted under the following conditions:

When the OAG issues an award after following the sealed bid or sealed proposal procedure, it may, at any time within 90 days thereafter, issue additional purchase orders or contracts to the same contractor or amendments to the original purchase order or

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contract for an additional quantity at the same unit price and on the same terms and conditions, if:

A) The contractor indicates that the additional purchase orders or contracts will be accepted if issued.

B) The market price of the commodities, services, or equipment in question has not gone down since the original purchase.

C) The amount of the additional purchases is not of such magnitude as to constitute a substantial or material variation from the first purchase order or contract.

2) Notices of supplementary purchases in excess of the small purchase limits shall be published in the next available Auditor General Bulletin.

m) Assignment, Novation or Change of Name

1) Assignment. No OAG contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the OAG. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the OAG.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

A) the transferee assumes all of the transferor's obligations;

B) the transferee meets all requirements for contracting with the OAG;

C) the transferor waives all rights under the contract as against the OAG; and

D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the OAG, furnish a satisfactory performance bond.

3) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the OAG. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

n) Use of Source Selection Method that is Not Required

If a method of source selection is used that it is not, by law, required (e.g., use of a competitive sealed bid for a small purchase), strict compliance with the rules governing the method of source selection used is not required.

o) Vendor Signature

An offer submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.

p) Stringing

Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.

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q) Confidential Data

Vendors must clearly identify in writing any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act (5 ILCS 140) and must request special handling of that material.

Section 500.310 Competitive Sealed Bidding

a) Application

Competitive sealed bidding is the required method of source selection except as allowed by this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

b) The Invitation for Bids

1) Use. The Invitation for Bids (IFB) is used to initiate a competitive sealed bid procurement.

2) Content. The IFB shall include, at a minimum, the following:

A) Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance;

B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and

C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

3) Incorporation by Reference. The IFB may incorporate documents by reference provided that the IFB specifies where such documents can be obtained.

c) Bidding Time

Bidding time is the period of time between the date of notice or distribution of the IFB and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by this Part.

d) Bidder Submissions

Bid Form. The IFB may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.

e) Public Notice

1) Publication. Every new procurement for supplies and services in excess of the small purchase amount that must be procured using an IFB shall be publicized in the Auditor General Bulletin at least 14 days before the date set for bid opening.

2) Public Availability. A copy of the IFB shall be made available for public inspection.

3) Distribution. IFBs or Notices of the Availability of Invitations

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for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where the IFB may be obtained, generally describe what is needed, and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the IFB.

f) Pre-Bid Conference

Pre-bid conferences may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as part of the IFB or, if the IFB has been issued, to all prospective bidders known to have received an IFB. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the IFB has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparation of bids. Nothing stated at the pre-bid conference shall change the IFB unless a change is made by written amendment to the IFB. Minutes of the conference shall be supplied to all those prospective bidders known to have received an IFB, unless the conference is mandatory, in which case the minutes shall be supplied to attendees only.

g) Amendments to Invitations for Bids

1) Form. Amendments to IFBs shall be clearly identified and shall reference the portion of the IFB being amended.

2) Distribution. Amendments shall be sent to all prospective bidders known to have received an IFB.

3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

h) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the IFB prior to the time and date set for bid opening.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

i) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

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- 2) Opening and Recording
 - A) Bids and modifications shall be opened publicly at the time, date, and place designated in the IFB. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.
 - B) All bids, except as otherwise provided in subsection (i)(3) of this Section, and the bid record, shall be available for public inspection after award.
- 3) Confidential Data. The Procurement Officer shall examine the bids to determine the validity of any written requests for nondisclosure of trade secrets or other proprietary data. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.
- 4) Bid Preparation and Award
 - 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB, except as permitted by this Part. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the IFB.
 - 2) Responsibility. Responsibility of prospective vendors is covered by Section 500.430 (Responsibility) of this Part.
 - 3) Responsiveness. A bid must conform in all material respects to the IFB.
- 5) Product or Service Acceptability. The IFB shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
 - i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste, or feel;
 - iii) other examinations to determine whether it conforms with any other purchase description requirements.
- 6) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set

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forth in the IFB. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the OAG in accordance with the evaluation criteria set forth in the IFB. Only objectively measurable criteria that are set forth in the IFB shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, administrative cost, and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the OAG has available concerning future use and shall provide for the equitable treatment of all bids.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

k) Documentation of Award. Following award, a record showing the successful bidder shall be made a part of the procurement file.

l) Award to Other Than Low Bidder.

1) The Procurement Officer may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Auditor General Bulletin.

2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the OAG's needs, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

m) Publicizing Award. The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 500.330 (Small Purchases) of this Part, notice of award shall be published in the Auditor General Bulletin.

Section 500.315 Multi-Step Sealed Bidding

When it is considered impracticable to initially prepare a definitive purchase description to support an award based on price, an IFB may be issued requesting the submission of unpriced offers to be followed by an IFB limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

b) All new procurements of professional and artistic services shall be

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Section 500.320 Competitive Sealed Proposals

a) The Competitive Sealed Proposal method of source selection shall be used to procure professional and artistic services, except as otherwise provided in subsection (b) of this Section. Other supplies and services may be procured through the Competitive Sealed Proposal method of source selection, on a case-by-case basis, when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.

1) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].

2) "Practicable" Distinguished from "Advantageous". As used in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest.

A) Factors to be considered in determining whether competitive sealed bidding is not practicable include:

- i) whether the contract needs to be other than a fixed-price type;
- ii) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
- iii) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
- iv) whether award may need to be based upon a comparative evaluation, as stated in the RFP, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and
- v) whether the primary consideration in determining award may not be price.

B) Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

- i) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and
- ii) whether the factors listed in subsection (a)(2)(A) of this Section are desirable, in conducting a procurement, rather than necessary.

b) All new procurements of professional and artistic services shall be

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made using the procedures contained in this Section, except:

- 1) Procurements under Section 500.330 (Small Purchases);
- 2) Procurements under Section 500.340 (Sole Source Procurement);
- 3) Procurements under Section 500.350 (Emergency Procurements);
- 4) Procurements of contract audit services pursuant to subsection (c) of this Section; and
- 5) Procurements subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act (30 ILCS 5/35).

c) Contract Audit Rotation

1) Auditor Retention Policy. Initial audits by a contractor involve audit hours to identify key records and personnel, become familiar with agency operations and the electronic data processing environment, determine what internal controls and procedures are in place, and develop agency specific audit programs. Retaining a contractor for successive audits of the same agency generally allows audits to be conducted more economically, efficiently and effectively, and minimizes audit effort by both the contractor and the agency under audit. Professional auditing standards generally recognize the importance of an auditor retention policy.

2) Rotation Policy. To maximize the efficiencies obtained by auditor retention, it is the OAG's general policy, subject to the OAG's sole discretion, to maintain the same contractor on an audit engagement for six successive fiscal years, subject to an examination of such factors including but not limited to performance review, the satisfactory negotiation of terms (including price) and the annual availability of an appropriation.

d) Contents

The RFP shall be in the form specified by the Procurement Officer and shall contain at least the following information:

- 1) instructions and information to proposers concerning the proposal submission requirements, including the time and date set for receipt of proposals, and the address of the office to which proposals are to be delivered;
- 2) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description;
- 3) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - A) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - B) the abilities, qualifications, and experience of key persons who would be assigned to provide the required services;
 - C) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as

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specified in the RFP;

- D) a plan, giving as much detail as is practical, explaining how the services will be performed; and
- 4) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package).
- e) Prequalification

The Procurement Officer shall maintain a list of prequalified professional and artistic vendors in accordance with Section 500.420 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.

- f) Public Notice

1) Proposals shall be obtained by issuing an RFP. Notice of Intent to Issue an RFP may be made by the Procurement Officer.

2) Availability of the RFP shall be published in the Auditor General Bulletin at least 14 days before proposals are due.

3) The RFP shall also be distributed to prequalified persons expressing interest in performing the services required by the proposed contract.

- g) Pre-Proposal Conference

A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 500.310(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

- h) Receipt and Registration of Proposals

Receipt and Registration of Proposals shall not be opened publicly but shall be opened in the presence of at least one witness. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service offered. All proposals, except as otherwise provided in subsection (i) of this Section, and the Register of Proposals, shall be available for public inspection after award.

- i) Confidential Data

The Procurement Officer shall examine the proposals to determine the validity of any written requests from the vendor for nondisclosure of trade secrets or other proprietary data. If the parties do not agree as to the disclosure of data or other information, the proposal shall be rejected as non-responsive.

- j) Evaluation of Proposals

The evaluation shall be based on the evaluation factors set forth in the RFP. Factors not specified in the RFP shall not be considered. Numerical rating systems may be used but are not required.

- k) Discussions

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- 1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:
 - A) Promote understanding of the OAG's requirements and the offerors' proposals;
 - B) determine in greater detail such offeror's qualifications;
 - C) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach; and
 - D) facilitate arriving at a contract that will be most advantageous to the OAG, taking into consideration price and the other evaluation factors set forth in the RFP.

The Procurement Officer may allow changes to the proposal based on those discussions.
- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and information contained in any proposals shall not be disclosed until after award of the proposed contract has been made.
- 3) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the OAG's requirements and require another submission of best and final offers. The scope of the best and final and the number of offerors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.
- 4) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the RFP being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.

- 1) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the OAG, based on the factors set forth in the RFP.

- m) Publicizing Awards

The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. When the award exceeds the small purchase limit set in Section 500.330 of this Part, notice of award shall be published in the Auditor General Bulletin.

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- n) Notice of Subcontractor

Any contract for professional and artistic services entered into under this Section 500.330 shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract. If at any time during the term of a contract, a contractor adds or changes any subcontractors, the contractor shall promptly notify, in writing, the Procurement Officer of the names and addresses and the expected amount of money each new or replaced subcontractor will receive.

- o) Pre-solicitation Request for Information

When the Procurement Officer does not have sufficient information about available supplies or services to issue an RFP, the Procurement Officer may issue a pre-solicitation request for information inviting vendors to submit non-price information about the availability of specified types of supplies or services. Public notice of the pre-solicitation request for information shall be published in the Auditor General Bulletin at least 14 days before the date set for the receipt of information. The submission of information by a vendor in response to a pre-solicitation request for information is not a prerequisite for that vendor to respond to a subsequent IFB or RFP for the types of supplies or services for which information was solicited, and the issuance of a pre-solicitation request for information does not commit the OAG to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a pre-solicitation request for information.

Section 500.330 Small Purchases

- a) Application

- 1) Procurements of \$25,000 or less for supplies or services, other than professional and artistic, of less than \$20,000 for construction and artistic services, and of \$30,000 or less for any prescribed method of source selection.
- 2) Any change identified by the United States Department of Labor in the Consumer Price Index, as certified by CMS, for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter, shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter.

- b) In determining whether a contract is under the limit, the stated value of the supplies or services, plus any optional supplies and services, determined in good faith, shall be utilized. Where the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

- c) If only a unit price or hourly rate is known, the contract shall be

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considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a) above).

d) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.

Section 500.340 Sole Economically Feasible Source Procurement

a) Application The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 500.330 (Small Purchases) or unless emergency conditions exist as defined in Section 500.350 (Emergency Procurements) of this Part.

b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) where the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
- 2) where a sole supplier's items are needed for trial use or testing;
- 3) where a sole supplier's item is to be procured for commercial resale;
- 4) where public utility regulated services are to be procured;
- 5) where the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
- 6) the procurement of the media for advertising;
- 7) the procurement of art, educational (including training for continuing professional education) or entertainment services; and
- 8) changes to existing contracts (see subsection (c)).

c) Changes

- 1) Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly

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indicate that the existing vendor is the sole economically feasible source.

2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 500.330 of this Part, or that is an emergency as defined in Section 500.350 of this Part, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures.

d) Procurement Officer to Determine

The Procurement Officer shall determine whether a procurement shall be made as a sole source. The determination and its basis shall be in writing.

e) Publication of Sole Source Notice

The Procurement Officer shall publish in the Auditor General Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

- 1) If no challenge to this determination is made by a vendor within the 14 day period, the OAG may execute a contract with that vendor.
- 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is not appropriate, unless an emergency situation exists.

f) Negotiation in Sole Source Procurement

The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) what was procured; and
- 4) the identification number of the contract file.

Section 500.350 Emergency Procurements

a) Application

The provisions of this Section apply to every procurement over the small purchase limit set in Section 500.330 (Small Purchases) of this Part and that is not a sole source procurement under Section 500.340 of this Part made under emergency, including quick purchase, conditions.

b) Definition of Emergency Conditions

Procurements may be made under this Section 500.350 in the following circumstances:

- 1) Traditional circumstances include but are not limited to:
 - A) public health or safety, including the health or safety of any particular person, is threatened;

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B) immediate repairs are needed to OAG property to protect against further loss or damage to OAG property, or to prevent loss or damage to OAG property;

C) immediate action is needed to prevent or minimize serious disruption in OAG services;

D) action is needed to ensure the integrity of OAG records;

E) equipment or services are necessary in the furtherance of covert activities (including the conduct of audits and investigations) lawfully conducted by the OAG. Any required disclosures may be postponed or shall be made so as not to jeopardize those covert activities;

F) immediate action is necessary to avoid lapsing or loss of federal or donated funds; or

G) the need for items to protect or further OAG interests is immediate and use of other competitive source selection procedures under this Part cannot be accomplished without significant risk of causing serious disadvantage to the OAG.

2) After Unsuccessful Competitive Sealed Bidding or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or non-competitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding or competitive sealed proposals, an emergency procurement may be made.

3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the OAG.

4) Quick Purchase

A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the OAG than instituting a competitive procurement under the provisions of this Part for the supplies or services;

B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

C) availability of rare items, such as books of historical value;

D) the procurement is for entertainment.

c) Scope of Emergency Conditions

Emergency procurements shall be limited to those supplies, services or construction items necessary to meet the emergency.

d) Source Selection Methods

Any method of source selection, whether or not identified in this

Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

e) Determination and Record of Emergency Procurement

- 1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. Such determinations shall be kept in the contract file.
- 2) Record. An affidavit of each emergency procurement shall be filed with the Auditor General within 10 days after the procurement and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract, provided that if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
 - C) a description of what the vendor will do or provide; and
 - D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the Auditor General Bulletin.

Section 500.360 Other Methods of Source Selection

Other methods of source selection, as defined by CMS in rules promulgated by it (44 Ill. Adm. Code 1) may be used by the OAG when, in the CPO's best judgment, such methods of source selection are in the State's best interests.

Section 500.370 Tie Bids and Proposals

a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include only one Illinois resident vendor, the Illinois resident vendor shall be given the award. "Illinois resident vendor" has the meaning given in Section 500.1110 (Resident Vendor Preference) of this Part. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with subsections (b)(2) through (5) of this Section.
- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the OAG shall be given additional consideration in determining responsibility if the procurement

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Officer determines that dealing with a vendor that has knowledge of OAG requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.
- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the agency require delivery as early as possible.
- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the Procurement Officer determines that splitting the award among two or more of the tied vendors is in the best interest of the State. Awards may be split if all affected vendors agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

c) Record. Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:

- 1) the identification number of the solicitation;
- 2) a description of what was procured; and
- 3) a listing of all the offerors and the prices submitted.

Section 500.380 Mistakes

- a) General Corrections to bids, proposals or other procurement processes are allowed but only to the extent not contrary to the best interest of the State or the fair treatment of other offerors.
- b) Mistakes Discovered Before Opening A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake When the Procurement Officer knows or has reason to conclude that a mistake has been made, such officer shall request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the offer may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.

- 1) Minor Informalities. A minor informality or irregularity is one

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that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the IFB, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The procurement Officer shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the State. Examples of minor informalities as to form include the failure of a bidder to:

- A) return the number of signed offers required by the IFB;
- B) acknowledge receipt of an amendment to the IFB, but only if:
 - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 2) Mistakes Where Intended Correct Bid is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transpositional errors, and arithmetical errors.
- 3) Mistakes Where Intended Correct Bid is Not Evident. A bidder may be permitted to withdraw a low bid if:
 - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) Mistakes in Proposals Discovered After Receipt, but Before Award This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
 - 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
 - 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under subsection (d).
- 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
 - B) the mistake is not clearly evident on the face of the

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proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

- the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
- the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
- the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

f) Mistakes Discovered After Award

Mistakes shall not be corrected after award of the contract except where the Procurement Officer finds it would be unconscionable (e.g., if the mistake resulted in a windfall to the State) not to allow the mistake to be corrected.

g) Determinations Required

When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer shall prepare the determination.

Section 500.390 Cancellation of Solicitations; Rejection of Offers

a) Scope of this Section

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the OAG under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of offers in whole or in part.

b) Policy

Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the OAG's best interest. Nothing shall compel the award of a contract.

c) Cancellation of Solicitation; Rejection of All Offers Prior to Opening

- As used in this Section, "opening" means the date set for opening of bids, proposals or responses or receipt of unpriced technical offers in multi-step sealed bidding.
- prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the OAG's best interest for reasons including, but not limited to:

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A) the OAG no longer requires the supplies, services or construction; and

B) the OAG no longer can reasonably expect to fund the procurement; or

C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

4) The notice of cancellation shall:

- identify the solicitation;
- briefly explain the reason for cancellation; and
- where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services or construction.

d) Cancellation of Solicitation; Rejection of All Offers After Opening

- After opening, but prior to award, all offers may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the OAG's best interest. Such reasons may include, but are not limited to:

 - the supply, service or construction being procured is no longer required;
 - ambiguous or otherwise inadequate specifications were part of the solicitation;
 - the solicitation did not provide for consideration of all factors of significance to the OAG;
 - prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - all otherwise acceptable offers received are at clearly unreasonable prices; or
 - there is reason to believe that the offers may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

- When the solicitation is canceled or when all offers are rejected, all vendors who submitted offers shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.

e) Documentation for Rejection

The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Offers

- General. This subsection (f) applies to rejections of individual offers in whole or in part.
- Notice in Solicitation. Each solicitation shall provide that any offer may be rejected in whole or in part when in the best interest of the OAG as provided in this Section.
- Reasons for Rejection

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Reasons for rejecting an offer may include, but are not limited to:

- A) the business that submitted the offer is nonresponsible as determined under Section 500.430 (Responsibility) of this Part;
- B) the offer is not responsive, that is, it does not conform in all material respects to the solicitation;
- C) the offer ultimately (that is, after any opportunity has passed for alteration or clarification) fails to meet the announced requirements of the OAG in some material respect;
- D) the supply, service or construction item offered is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the solicitation; or
- E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful offerors shall be advised of the reasons for rejection.

SUBPART E: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 500.400 Suppliers

The OAG may contract with any qualified source of supply, including the following special sources, from which procurements may be made without notice and competition:

- a) Correctional Industries;
- b) State and Federal Surplus Warehouses under the jurisdiction of CMS.
- c) Qualified workshops for the disabled;
- d) State agencies and other governmental units.

Section 500.410 Vendor List/Required Use

- a) The CPO may maintain a list of vendors interested in doing business with the OAG. The names and addresses of vendors on the list shall be available for public inspection.
- b) Inclusion on, or exclusion from, the list shall not be a factor in determining whether a vendor is a responsible vendor.
- c) When vendors are directly solicited by the OAG, solicitations will be sent to vendors on the vendor list for the supplies or services in question, except in the following cases:
 - 1) The vendor does not sell the particular commodity or equipment.
 - 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The Procurement Officer may,

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If he/she determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.

- 3) The Procurement Officer determines that the best interest of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).
- d) The CPO may alternately refer to vendor lists maintained by CMS.

Section 500.420 Prequalification

- a) General
 - 1) The CPO shall identify by publication in the Auditor General Bulletin the categories of supplies and services (including professional and artistic services) for which the OAG may prequalify vendors of those supplies and services. The OAG is not required to prequalify vendors but may do so when determination of a vendor's qualifications prior to procurement would be advantageous to the OAG.
 - 2) An opportunity to prequalify shall be available at least one time each fiscal year. The opportunity to prequalify shall be announced in the Auditor General Bulletin. The notice shall alert vendors that failure to participate in the prequalification process may result in the vendor being ineligible to receive contracts.
 - 3) When prequalifying a vendor, the Procurement Officer may limit prequalifications to determining whether a vendor has been and is likely to be "responsible" using the criteria set forth in Section 500.430 of this Part. The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
 - 4) When prequalifying a vendor, the Procurement Officer may consider factors tailored to a specific procurement or type of procurement, which shall be announced in the Auditor General Bulletin.
 - 5) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the solicitation shall state that fact.
- b) Professional and Artistic Services
 - Any prequalification of vendors of professional and artistic services shall include, at a minimum, a specified level of:
 - 1) education;
 - 2) training;
 - 3) experience; and
 - 4) technical ability;

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and may require certification or licensure, or membership in professional associations.

c) Qualified Products List

Qualified products lists are treated in Section 500.600 (Specifications) of this Part.

Section 500.430 Responsibility

a) Application

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

b) Standards.

1) Standards. Factors to be considered in determining whether the standard of responsibility has been met may include, but are not limited to, whether a prospective vendor:

A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level below which the vendor will be deemed "not responsible");

B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;

C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;

D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;

E) is qualified legally to contract with the State;

F) has supplied all necessary information in connection with the inquiry concerning responsibility;

G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;

H) pays prevailing wages, if required by law; and

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1) is current in payment of all State of Illinois taxes, including the unemployment insurance tax.

2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The OAG may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Procurement Officer. The final determination shall be made part of the procurement file.

d) Bond for Responsibility

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.

e) Affiliated Companies

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

SUBPART F: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 500.500 Security Requirements

a) A Procurement Officer may require that a vendor furnish bid, proposal or performance security on OAG contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.

b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

c) Unless the amount is set by law, the CPO will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.

d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.

e) Permissive/Mandatory Security

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- 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
- 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
- 3) Performance security is required on all public works contracts.
- f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the OAG. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART G: SPECIFICATIONS

Section 500.600 Specifications

- a) Responsibilities Regarding Specifications
The Procurement Officer is authorized to write specifications for procurements for the OAG.
- b) Procedures for the Development of Specifications
 - 1) All procurements shall be based on specifications that accurately reflect the OAG's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 2) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate OAG needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 3) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 4) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the OAG's requirements.
- c) Brand Name or Equal Specification
 - 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the OAG's

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- 1) requirement makes use of a brand name or equal specification suitable for the procurement; or use of a brand name or equal specification is in the OAG's best interest.
- D) 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal," and shall further state that substantially equivalent products to those designated will be considered for award.
- 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
- 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the vendor.

- d) Brand Name Only Specification
 - 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the OAG's needs.
 - 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock State retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the Procurement Officer. The OAG may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
 - 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the Procurement shall be made under Section 500.340 (Sole Economically Feasible Source Procurement) of this Part.
 - 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 500.330 of this Part) and emergency (Section 500.350 of this Part)

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e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy OAG requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- 4) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

5) Product Demonstration

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the OAG's discretion and will not entitle the vendor to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

6) Specifications Prepared by Other Than OAG Personnel

- 1) Specifications may be prepared by other than OAG personnel, including, but not limited to, other State personnel, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the OAG, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than OAG personnel shall require the specification writer to adhere to OAG requirements.
- 2) The person who prepared the specifications shall not submit an offer to meet the procurement need unless the CPO, and not a designee, determines in writing that it would be in the best interest of the OAG to accept such an offer from that person. A notice to that effect shall be published in the Auditor General Bulletin.

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SUBPART H: CONTRACT TYPE

Section 500.700 Types of Contracts

a) Subject to the limitations of this Section and unless otherwise authorized by law, any type of contract that will promote the best interests of the State may be used.

b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting. The cost-plus-a-percentage-of-cost contract is prohibited. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the supply or service on which the vendor's percentage is applied.

- 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
- 2) A percentage mark-up from the price of a supply or service selected by the State or another vendor under contract to the State is not a cost-plus-a-percentage-of-cost contract.

c) Option Provisions

When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the OAG's option or by mutual agreement.

d) State Produced Supplies and Services

Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

SUBPART I: DURATION OF CONTRACTS

Section 500.800 Duration of Contracts

a) General

- 1) A multi-term contract for a term up to 10 years is authorized when determined by the Procurement Officer to be in the best interest of the State.
- 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.

b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

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c) Conditions for Use of Multi-Term Contracts

A multi-term contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet OAG needs; or
- 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in OAG procurement. The following factors are among those relevant to such a determination:

A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or

D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Term Contract Procedure

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) the type of pricing requested (e.g., firm for term);
- 4) how award will be determined.

e) Renewals

- 1) Renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract and the option is reserved solely to the OAG or is by mutual agreement.
- 2) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by this Part. This renewal will start a new term that shall not exceed 10 years.

SUBPART J: CONTRACT MATTERS

Section 500.900 Prevailing Wage

a) In order to be considered responsible under Section 500.430, vendors of the following classifications of services must certify to the OAG that their employees are paid wages and benefits and are working under

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conditions prevalent in the location where the work is to be performed:

- 1) Printing;
- 2) Janitorial services, window washing, and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000; and
- 3) Public works.

b) For purposes of this Section, "locality" or "location" shall have the meaning established in rules promulgated by CMS (see 44 Ill. Adm. Code 1-2560).

c) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

Section 500.910 Filing with Comptroller

a) Filing with Comptroller

Whenever a contract liability, except for contracts paid from personal services or contracts between the OAG and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding \$10,000 is incurred by the OAG, a copy of the contract, purchase order, or lease shall be filed with the Comptroller within 15 days thereafter. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days after its execution.

b) Late Filing Affidavit

When a contract, purchase order, or lease required to be filed by this Section has not been filed within 30 days after execution, the OAG must file with the Comptroller an affidavit, signed by the Auditor General or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days after execution. A copy of this affidavit shall be filed with the Auditor General.

c) Professional and Artistic Services Contracts

No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract for services involving professional or artistic skills involving an expenditure of more than \$5,000 for the same type of services at the same location during any fiscal year unless the contract is reduced to writing before the services are performed and filed with the Comptroller. When a contract for professional or artistic skills in excess of \$5,000 was not reduced to writing before the services were performed, the Comptroller shall refuse to issue a warrant for payment for the services until the OAG files with the Comptroller:

- 1) a written contract covering the services; and
- 2) an affidavit, signed by the Auditor General or his or her designee, stating the services for which payment is being made were agreed to before commencement of the services and setting forth an explanation of why the contract was not reduced

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to writing before the services commenced. A copy of this affidavit shall be filed with the Auditor General.

Section 500.920 Equal Employment Opportunity; Affirmative Action

a) Public Contracts

Every party to a public contract and every eligible bidder shall:

- 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- 2) Comply with applicable procedures and requirements of the Department of Human Right's (DHR) regulations concerning equal employment opportunities and affirmative action;
- 3) Provide such information, with respect to its employees and applicants for employment, and assistance as DHR may reasonably request;
- 4) Have written sexual harassment policies that shall include, at a minimum, the following information:

- A) the illegality of sexual harassment;
- B) the definition of sexual harassment under State law;
- C) a description of sexual harassment, utilizing examples;
- D) the vendor's internal complaint process, including penalties;
- E) the legal recourse, investigative and complaint process available through DHR and the Human Rights Commission;
- F) directions on how to contact DHR and the Commission; and
- G) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (IHRA) (775 ILCS 5). A copy of the policies shall be provided to DHR upon request.

b) Section 7-105A of the IHRA authorizes DHR to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible bidders and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible bidder duties, obligations, and reporting requirements. These rules require that certain employers register with DHR in order to be eligible for the award of certain public contracts (44 Ill. Adm. Code 750.Appendix A).

SUBPART K: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 500.1000 Applicability

Except as otherwise authorized or required by law, real property leases and capital improvement leases are subject to, and shall be procured by, the OAG in accordance with this Part.

Section 500.1010 Method of Source Selection

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Leases shall be procured by a Request for Information (RFI) process except that the process need not be used in any of the following circumstances:

- a) Property of less than 10,000 square feet.
- b) Rent of less than \$100,000 per year.
- c) Duration of less than one year that cannot be renewed.
- d) Specialized space available at only one location.
- e) Renewal or extension of leases after the effective date of this Part, provided that:

- 1) the CPO determines in writing that renewal or extension is in the best interest of the State; and
- 2) the CPO publishes notice of the renewal or extension in the Auditor General Bulletin.

f) Leases with governmental units when deemed by the CPO to be in the best interest of the State.

Section 500.1020 Request for Information

- a) RFI Form
When required, an RFI shall be issued and shall include:
 - 1) the type of property to be leased;
 - 2) the proposed uses of the property;
 - 3) the duration of the lease;
 - 4) the preferred location of the property; and
 - 5) a general description of the configuration desired.
- b) Public Notice
Public notice of the RFI for the availability of real property to lease shall be published in the Auditor General Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the OAG is seeking space.
- c) Response
The RFI response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the RFI.
- d) Negotiation and Determination
The Procurement Officer may enter into discussions with respondents of the RFI for the purpose of clarifying OAG needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, the Procurement Officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the RFI. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State.
- e) Reporting and Filing
When the lowest response by price is not selected, a written report of the negotiation shall be retained in the lease files and shall include the reasons for the final selection.

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Section 500.1030 Lease Requirements

- a) **Length of Leases**
 - 1) Maximum term. Except where a longer term is authorized by law, leases shall be for a term not to exceed 10 years and shall include a termination option in favor of the OAG after 5 years.
 - 2) Renewal Option. Leases may include a renewal option. An option to renew may be exercised only when the Procurement Officer determines in writing that renewal is in the best interest of the OAG, and notice of the exercise of the option is published in the Auditor General Bulletin at least 60 days prior to the exercise of the option.
- b) **Subject to Appropriation**

All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

Section 500.1040 Purchase Option

Initial leases of all space in entire, free-standing buildings shall include an option to purchase exercisable by the OAG, unless the CPO determines that inclusion of a purchase option is not in the OAG's best interest and makes that determination in writing along with the reasons for making that determination. The determination shall be published in the Auditor General Bulletin. Leases from governmental units and not-for-profit entities are exempt from the requirements of this Section.

Section 500.1050 Rent Without Occupancy

Except when deemed by the CPO to be in the best interest of the State, the OAG may not incur rental obligations before having occupancy or possession of the space rented.

Section 500.1060 Local Site Preferences

Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts, or redevelopment districts.

SUBPART L: PREFERENCES

Section 500.1110 Resident Vendor Preference

- a) When a contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a non-resident bidder from any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder.

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Further, if only non-resident bidders are bidding, the purchasing agency is within its right to specify that Illinois labor and manufacturing locations be used as a part of the manufacturing process, if applicable, this specification may be negotiated as part of the solicitation process. [30 ILCS 500/45-10(a)]

- b) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any bid for a public contract is first advertised or announced. A resident bidder includes a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State where it was actually transacting business on the date when any bid for a public contract is first advertised or announced.
- c) In breaking a tie, an Illinois resident vendor shall be given the award.
- d) This Section does not apply to any contract for any project as to which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

Section 500.1120 Soybean Oil-based Ink

Contracts requiring the procurement of printing services shall specify the use of soybean oil-based ink unless the Procurement Officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

Section 500.1130 Recycled Materials

When a public contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of products made of recycled materials may, on a pilot basis or in accordance with a pilot study, be given preference over other bidders unable to do so, provided that the cost included in the bid of products made of recycled materials is not more than 10% greater than the cost of products not made of recycled materials. [30 ILCS 500/45-20]

Section 500.1140 Recyclable Paper

All paper purchased for use by State agencies must be recyclable paper unless recyclable paper cannot be used to meet the requirements of the State agencies. State agencies shall determine their paper requirements to allow the use of recyclable paper whenever possible, including without limitation using plain paper rather than colored paper that is not recyclable. [30 ILCS 500/45-25]

Section 500.1150 Correctional Industries

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- a) The CPO shall make available to all Procurement Officers a listing of the supplies or services available from the Department of Corrections and shall identify those that must be purchased from Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the CPO.
- c) Procurement Officers are authorized to procure from Corrections without seeking competition or giving public notice, but must inform the CPO of all such purchases.

Section 500.1160 Sheltered Workshops for the Disabled

- a) Use of Sheltered Workshops
 - The Procurement Officer may determine to contract with a sheltered workshop on the list maintained by the CPO for CMS, and may do so without notice or competition.
- b) Pricing Approval
 - While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar supplies or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

Section 500.1170 Gas Mileage

- a) Specifications for the purchase of new passenger automobiles shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. As used in this Section, passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, or police or fire vehicles.
- b) The CPO may exempt a procurement from the requirement of subsection (a) when a demonstrated need has been presented to the CPO in writing and approved by that officer.

Section 500.1180 Small Business

- a) Set-Aside
 - The Procurement Officer may determine categories of supplies or service procurements that will be set aside for small businesses located in Illinois. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.
 - b) Small Business List
 - The Procurement Officer may develop its own list, or may use the list maintained by CMS or other appropriate State agency, of responsible

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vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

- c) Required Use
 - If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) Withdrawal of Set-Aside
 - If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Auditor General Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of this Part.

e) Criteria for Small Business

Unless the Procurement Officer provides definition for a particular procurement that reflects industry characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operation. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for the most recently ended fiscal year no greater than:
 - A) \$7,500,000 for wholesale business;
 - B) \$3,000,000 for construction business; or
 - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business:
 - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
 - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If the business is any combination of retailer, wholesaler or

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construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$9,000,000 and the retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

Section 500.1190 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

a) Upon direction of the CPO, the OAG may establish goals and other such preferences for contracting or subcontracting with businesses owned and controlled by minorities, females and persons with disabilities.

b) For purposes of this Section, the individuals claiming ownership and control must own at least 51% of the business.

c) The CPO may refer to the list of businesses that have been certified by CMS under the Business Enterprise Act for Minorities, Females and Persons with Disabilities [30 ILCS 5/75].

SUBPART M: ETHICS

Section 500.1200 Bribery

a) **Prohibition**
No person or business shall be awarded a contract or subcontract under this Code who:

- 1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or
- 2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

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b) **Businesses**
No business shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

- 1) the business has been finally adjudicated not guilty; or
- 2) the business demonstrates to the governmental entity with which it seeks to contract, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in Section 5-4(a)(2) of the Criminal Code of 1961.

c) **Conduct on Behalf of Business**
For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

d) **Certification**
Every bid submitted to and contract executed by the State shall contain a certification by the contractor that the contractor is not barred from being awarded a contract or subcontract under this Section. [30 ILCS 500/50-5]

Section 500.1210 Felons

Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any state agency from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible for a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. [30 ILCS 500/50-10]

Section 500.1220 Conflicts of Interest

a) **Prohibition**
It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract thereto, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the

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Capital Development Board or the Illinois Toll Highway Authority. [30 ILCS 500/50-13(a)]**b) Interests**

It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive more than 7 1/2% of the total distributable income or an amount in excess of the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(b)]

c) Combined Interests

It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive more than 15%, in the aggregate, of the total distributable income or an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein. [30 ILCS 500/50-13(c)]

d) Securities

Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois. [30 ILCS 500/50-13 (d)]

e) Prior Interests

This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed. [30 ILCS 500/50-13 (e)]

f) Exceptions

1) Public aid payments. This Section does not apply to payments made for a public aid recipient.

2) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, or Northeastern Illinois University.

3) Ministerial duties.

This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly. This Section does not apply to

4) Child and family services.

This Section does not apply to a contract for personal services of a child or family served by the Department of Children and Family Services.

5) Licensed professionals. Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the Department of Children and Family Services, the Department of Human Services, the Department of Public Aid, the Department of Public Health, or the Department on Aging. [30 ILCS 500/50-13(f)]

g) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finder's fees and commission payments.

h) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, that is distributed to those entitled to receive a share of such income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year.

i) Exemptions

If the Procurement Officer finds a conflict of interest under this Section with the vendor selected for award or contract negotiations, the Procurement Officer shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO may exempt named individuals from the prohibitions of this Section when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

Section 500.1230 Negotiations for Future Employment

a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment. [30 ILCS 500/50-15(a)]

b) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continual contractual relationship" from the effective date of the contract until such time as the contract is terminated.

c) An individual who performs services pursuant to a contract and who

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payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.

5) Licensed professionals. Contracts with licensed professionals, provided they are competitively bid or part of a reimbursement program for specific, customary goods and services through the Department of Children and Family Services, the Department of Human Services, the Department of Public Aid, the Department of Public Health, or the Department on Aging. [30 ILCS 500/50-13(f)]

g) An individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, including finder's fees and commission payments.

h) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, that is distributed to those entitled to receive a share of such income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income the entitlement shall be determined at the end of the company's most recent fiscal year.

i) Exemptions

If the Procurement Officer finds a conflict of interest under this Section with the vendor selected for award or contract negotiations, the Procurement Officer shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict, and shall state why an exemption should be granted. The CPO may exempt named individuals from the prohibitions of this Section when, in its judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. [30 ILCS 500/50-20]

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meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continual contractual relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the OAG must act to terminate, or has a definite term of at least three months.

Section 500.1240 Revolving Door Prohibition

The CPO and any employees whose principal duties are directly related to OAG procurement are prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the OAG. This prohibition applies to persons who terminate an affected position on or after January 15, 1999. The CPO shall identify in writing those designees whose jobs, or whose position descriptions, are at least 51% directly related to OAG procurement. Activities directly related to OAG procurement include, but are not limited to: drafting specifications, preparing solicitations, evaluating offers, negotiating contracts, administering contracts and supervising any of the foregoing.

Section 500.1250 Disclosure of Financial Interests and Potential Conflicts of Interest

a) Requirement for Disclosure

- 1) All offers from responsive bidders or offerors with an annual value of more than \$10,000 shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer. The financial disclosure of each successful bidder or offeror shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer [30 ILCS 500/50-35(a)]
- 2) Disclosure by the responsive bidders or offerors shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the bidding entity or its parent entity, whichever is less, unless the contractor or bidder:
 - A) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure; or
 - B) is a privately held entity that is exempt from Federal 10K reporting but has more than 400 shareholders, partners or members, in which case it may submit the information that Federal 10K reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure.

b) Definitions and General Provisions

- 1) An "offer from responsive bidders or offerors" means only those offers that are received using an invitation for bids or request

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for Proposals under Section 500.310 or 500.320 of this Part. Disclosures are not required in sole source or emergency procurements.

- 2) A "parent entity" means a person who owns 100% of the bidding entity.
- 3) "Contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, that is by and between the State and the named individual.
- 4) "Distributable" or "distributive" income means the income of a company after payment of all expenses, including employee salaries and bonuses, and retained earnings, that is distributed to those entitled to receive a share of such income.
- 5) "Personal services" shall be any contract for services subject to this Part, including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from this Part under Section 500.30(a)(4) of this Part.
- 6) "Competitive bid" means a contract let pursuant to Section 500.310 or 500.320 of this Part.
- 7) "Subject to federal 10K reporting" means subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934. "10K disclosure" means a report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.
- 8) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.
- 9) 10K Disclosures
 - A) Any vendor subject to federal 10K reporting requirements may submit its 10K to the OAG in satisfaction of this disclosure requirement provided the vendor also identifies the specific sections or parts in the 10K disclosure where the OAG may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the OAG is not in the 10K, but is in a document referred to in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.
 - B) 10K disclosures are available for public review. Any potential conflict of interest identified by the public and brought to the attention of the CPO shall be investigated.

- C) In circumstances where a vendor may submit a 10K disclosure in lieu of the specific disclosure requirements and for purposes of the procurement officer's duty to consider any

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conflict or potential conflict of interest that may exist, but that is not subject to specific disclosure requirements of this Part, and that is not personally known by the Procurement Officer, "publicly known or reasonably available to the public" shall consist of information identified by the vendor in the 10K disclosure and any information disclosed pursuant to public review of the 10K disclosure.

c) Form of Disclosure

The form of disclosure shall be prescribed by the CPO and must include at least the names and addresses of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

- 1) State employment, currently or in the previous 3 years, including contractual employment of services;
- 2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years;
- 3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years;
- 4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter;
- 5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years;
- 6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter;
- 7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government;
- 8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter;
- 9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections;
- 10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois;

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or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

d) Intent of Disclosure

The disclosure in subsection (c) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the CPO, procurement officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

e) Determination by Procurement Officer

In the case of any contract for personal services in excess of \$50,000; any contract competitively bid in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected it shall be reviewed by the Procurement Officer or his or her designee, who must rule whether to void or allow the contract, bid, offer, or proposal weighing the best interest of the State of Illinois. Any such written determination shall become a publicly available part of the contract, bid, or proposal file.

f) Requirements for Reasonable Care and Diligence

These thresholds and disclosure do not relieve the CPO, procurement officers, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The CPO, procurement officers, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

g) Inadvertent or Accidental Failure to Fully Disclose

Inadvertent or accidental failure to fully disclose shall render the contract, bid, proposal, or relationship voidable by the CPO if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, proposals, or relationships with the OAG for a period of up to 2 years.

h) Intentional, Willful, or Material Failure to Disclose

Intentional, willful, or material failure to disclose shall render the contract, bid, proposal, or relationship voidable by the CPO if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, or relationships with the OAG for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented upon by the CPO, who must rule in writing whether and when to reinstate.

i) Other Procurements

In addition, all disclosures shall note any other current or pending contracts, proposals, leases, or other ongoing procurement relationships the bidding, proposing, or offering entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship. [30 ILCS

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500/50-35(h)]

Section 500.1260 Reporting Anticompetitive Practices

When, for any reason, any vendor, bidder, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer. [30 ILCS 500/50-40]

Section 500.1270 Confidentiality

Any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive bid documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or contract process shall be subject to immediate dismissal [30 ILCS 500/50-45], regardless of personnel rules, any contract, law or other agreement, and may, in addition, be subject to criminal prosecution.

Section 500.1280 Insider Information

It is unlawful for any current or former elected or appointed State official or State employee to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person. [30 ILCS 500/50-50] Any violation of this Section may result in immediate dismissal, regardless of personnel rules, any contract, law or other agreement.

Section 500.1290 Other Violations

Any OAG employee who willfully violates or allows the violation of this Part is subject to immediate dismissal, regardless of personnel rules, any contract, law or other agreement.

SUBPART N: PROTESTS AND REMEDIES

Section 500.1300 Suspension

a.) Application

This Section applies to all debarments or suspensions of vendors from consideration for award of contracts.

b.) The CPO may suspend a vendor from doing business with the OAG, or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated any law governing the procurement transaction or this Part, or failed to conform to specifications or

terms of delivery.

- c.) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Offers will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.
- d.) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.

- e.) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the OAG. A department may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Offers received from the debarred vendor will not be considered.
- f.) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

Section 500.1310 Resolution of Contract Controversies

- a.) Authority to Settle or Resolve Controversies The CPO or Procurement Officer who established the contract shall have authority to settle and resolve controversies but the Auditor General may set limits on such authority.
- b.) Authority of OAG

- The OAG has the authority to accept delivery of supplies or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c.) Substitution of Terms/Price Reduction

- If the vendor proposes to make an adjustment by:
 - 1) substituting an alternative specification; or
 - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract, such proposal must be referred to and approved by the Procurement Officer.
- d.) Cancellation of Breach of Contract

- In any of the following cases the CPO or Procurement Officer shall have the right to terminate or rescind any contract entered into under this Part:
 - 1) the successful offeror fails to furnish a satisfactory performance bond within the time specified;

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2) the vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OAG;

3) any supplies or services provided under the contract are rejected (for example, not meeting specifications, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly;

4) the vendor is guilty of misrepresentation (for example, misbranding) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill its obligations as a responsible vendor under any of its contracts with the OAG;

5) the vendor:

A) is adjudged bankrupt or enters into receivership or makes a general assignment for the benefit of its creditors due to insolvency; or

B) disregards laws, rules or instructions of a contracting officer; or

C) acts in violation of any provision of the contract or this Part;

6) the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States; or

7) any other breach of contract or other unlawful act by the vendor.

e) Cancellation for Fraud, Collusion, Illegality, Etc.

The OAG may cancel any contract it established if there is sufficient evidence to show that:

1) the contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or

2) the contract conflicts with any statutory provision of the State of Illinois or of the United States.

f) Withholding Money to Compensate State for Damages

If a contract is terminated or rescinded under this Section, the State may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.

g) Damages

The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

1) the additional cost of supplies or services bought elsewhere;

2) cost of repeating the procurement procedure;

3) any expenses incurred because of delay in receipt of supplies or services; and

4) any other damages caused by the vendor's breach of contract or

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unlawful act.

Section 500.1320 Violation of Law or Rule

a) Determination that Solicitation or Award Violates Law in violation of statute or rule, the CPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.

b) Determination that Contract Violates this Part

If any contract is entered into or purchase or expenditure of funds is made in violation of this Part or any other law, the contract may be declared void by the CPO or may be ratified and affirmed, provided the CPO determines that ratification is in the best interests of the OAG. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.

c) Effect of Declaring a Contract Null and Void

In all cases in which a contract is voided, the OAG shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 500.1330 Protests

a) Protest Resolution by the Procurement Officer

An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.

b) Complaints to the Procurement Officer

Complainants should seek resolution of their complaints initially with the Procurement Officer conducting the solicitation. Such complaints may be made verbally or in writing.

c) Filing of Protest

1) Protests shall be made in writing to the CPO, and shall be filed within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the CPO. Protests filed after the 7 calendar day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 7 calendar days after the date the solicitation was issued, and in any event must be received by the OAG at the designated address before the date for opening of offers.

2) To expedite handling of protests, the envelope should be labeled "Protest." The written protest shall include at a minimum the following:

A) the name and address of the protester;

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- B) appropriate identification of the procurement and, if a contract has been awarded, its number;
- C) a statement of reasons for the protest; and
- D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

d) Requested Information: Time for Filing

Any additional information requested by the OAG shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the CPO may result in resolution of the protest without consideration of that information.

e) Stay of Procurements During Protest

When a protest has been timely filed and before an award has been made, the Procurement Officer shall make no award of the contract until the protest has been resolved. If timely received but after award, the award shall be revoked without penalty and no award made until the protest has been resolved. In either case the CPO may make the award or reinstate the award upon a determination that the needs of the State require an immediate award and performance under the contract.

f) Decision by the CPO

A decision on a protest shall be made by the CPO as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.

g) Effect of Judicial or Administrative Proceedings

If an action concerning the protest has commenced in court, the CPO shall not act on the protest, but shall refer the protest to the Attorney General. This subsection shall not apply when a court requests, expects, or otherwise expresses interest in the decision of the CPO.

SUBPART O: GOVERNMENTAL JOINT PURCHASING

Section 500.1400 General

In an effort to make the procurement process more efficient, State and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525].

Section 500.1410 No Agency Relationship

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In any joint procurement situation, the governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. The State of Illinois shall not have any obligation to the vendor for payment of orders placed by other governmental units.

SUBPART P: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 500.1500 Severability

Determinations made by the OAG under this Part are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

Section 500.1520 Government Furnished Property

If the OAG provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 500.1530 Inspections

- a) Inspection of Plant or Site
 - The OAG may enter a vendor's or subcontractor's plant or place of business to:
 - 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
 - 2) audit the books and records of any vendor or subcontractor pursuant to Section 500.1540 (Records and Audits) of this Part;
 - 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to this Part;
 - 4) determine whether the standards of responsibility have been met or are capable of being met;
 - 5) determine if the contract is being performed in accordance with its terms; and
 - 6) accomplishing any other purpose permitted by law.
- b) Inspection and Testing of Supplies and Services
 - 1) Solicitation and Contractual Provisions. OAG contracts may provide that the OAG may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract

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requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

2) Procedures for Trial Use and Testing. The Procurement Officer may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections

- 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the Procurement Officer may change any provision of the specifications or the contract without written authorization of the Procurement Officer. The presence or absence of an inspector shall not relieve the vendor or subcontractor from any requirements of the contract.
- 2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.

Section 500.1540 Records and Audits

a) Retention of Books and Records

Books and records that relate to performance of a State contract, including subcontracts, and that support amounts charged to the State, shall be maintained:

- 1) by a vendor, for three years from the date of final payment under the prime contract;
- 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
- 3) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.

b) Contract Audit

- 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and material contract.
- 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
 - A) the financial condition, integrity, and reliability of the vendor or subcontractor;
 - B) any prior audit experience;

AUDITOR GENERAL

NOTICE OF ADOPTED RULES

C) the adequacy of the vendor's or subcontractor's accounting system;

D) the number or nature of invoices or reimbursement vouchers submitted by the vendor or subcontractor for payment;

E) the use of federal assistance funds;

F) the fluctuation of market prices affecting the contract; or

G) any other situation when the Procurement Officer finds that such an audit is necessary for the protection of the State.⁶

c) Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

Section 500.1550 No Waiver of Sovereign Immunity

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1

3) Section Numbers: 1.1040 Adopted Action: Amended

4) Statutory Authority: 30 ILCS 500

5) Effective Date of Amendments: January 21, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: September 24, 1999, 23 Ill. Reg. 11762

10) Has JCAR issued a Statement of Objection to the amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were necessary.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The CPO (CMS) is granting to agencies increased authority to procure certain supplies and services that are under the new small purchase threshold. With certain exceptions, agencies will be responsible for procuring supplies and services, not exceeding \$25,000.

16) Information and questions regarding this adopted amendment shall be directed to:
Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669

The full text of the adopted amendments begin on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 1

STANDARD PROCUREMENT

SUBPART A: GENERAL

Section Title
1.01 Policy
1.05 Purpose and Implementation of This Part
1.08 Application
1.10 Application
1.15 Definition of Terms Used in This Part
1.25 Property Rights
1.30 Constitutional Officers, and Legislative and Judicial Branches

SUBPART B: PROCUREMENT RULES

Section Rules
1.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section
1.1005 Exercise of Procurement Authority
1.1010 Appointment of State Purchasing Officer
1.1030 Associate Procurement Officers
1.1040 Central Procurement Authority of the CPO
1.1050 Procurement Authority of the SPO; Limitations
1.1060 Delegation
1.1070 Total Highway Authority
1.1075 Department of Natural Resources
1.1080 Illinois Mathematics and Science Academy

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section
1.1510 Illinois Procurement Bulletin
1.1525 Bulletin Content
1.1550 Official State Newspaper
1.1560 Supplemental Notice
1.1570 Error in Notice
1.1580 Direct Solicitation
1.1590 Retention of Bulletin Information

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section	General Provisions
1.2005	Competitive Sealed Bidding
1.2010	Multi-Step Sealed Bidding
1.2012	Competitive Sealed Proposals
1.2015	Small Purchases
1.2020	Small Economically Feasible Source Procurement
1.2025	Emergency Procurements
1.2030	Competitive Selection Procedures for Professional and Artistic Services
1.2035	Other Methods of Source Selection
1.2036	Tie Bids and Proposals
1.2037	Mistakes
1.2038	Cancellation of Solicitations; Rejection of Bids or Proposals
1.2040	CANCELLATION OF SOLICITATIONS; REJECTION OF BIDS OR PROPOSALS
Section	SUPPLIER F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY
1.2043	Suppliers
1.2044	Vendor List/Required Use
1.2045	Prequalification
1.2046	Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section	Security Requirements
1.2047	SUPPLIER H: SPECIFICATIONS AND SAMPLES

SUBPART I: CONTRACT TYPE

Section	Specifications and Samples
1.2050	SUPPLIER I: CONTRACT TYPE

SUBPART J: DURATION OF CONTRACTS

Section	Duration of Contracts - General
1.2060	SUPPLIER K: CONTRACT MATTERS

Section	Prevailing Wage
1.2060	Equal Employment Opportunity; Affirmative Action

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Section	Contract Pricing
1.2800	All Costs Included
Section	Construction and Construction Related Professional Services
1.3005	Construction and Construction Related Professional Services
Section	Real Property Leases and Capital Improvement Leases
1.4005	Real Property Leases and Capital Improvement Leases
Section	Preferences
1.4505	Procurement Preferences
1.4510	Resident Bidder Preference
1.4530	Correctional Industries
1.4535	Sheltered Workshops for the Disabled
1.4540	Gas Mileage
1.4545	Small Business
1.4570	Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
Section	Ethics
1.5013	Conflicts of Interest
1.5015	Negotiations for Future Employment
1.5020	Exemptions
1.5030	Revolving Door
1.5035	Disclosure of Financial Interests and Potential Conflicts of Interest
Section	Concessions
1.5310	Concessions
Section	Complaints, Protests and Remedies
1.5510	Complaints Against Vendors
1.5520	Suspension
1.5530	Resolution of Contract Controversies

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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1.5540 Violation of Law or Rule
1.5550 Protests

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section 1.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section General
1.6500 No Agency Relationship
1.6510 Obligations of Participating Governmental Units
1.6520 Centralized Contracts - Estimated Quantities
1.6530 Centralized Contracts - Definite Quantities
1.6535

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1.7000 Severability
1.7010 Government Furnished Property
1.7015 Inspections
1.7020 Records and Audits
1.7025 Written Determinations
1.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 1341, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days; emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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7, 1999; JAN 21 2000 at 24 Ill. Reg. 1900, effective

SUBPART C: PROCUREMENT AUTHORITY

Section 1.1040 Central Procurement Authority of the CPO

- a) The CPO may establish master, scheduled or open-ended contracts for any supplies and services, and those contracts shall be utilized by State agencies in accordance with the terms of those contracts for the procurement of supplies and services covered by those contracts.
- b) The following items will be procured by the CPO as the central purchasing agency. These items may be procured by an SPO only as provided in this Subpart or in a letter of delegation from the CPO authorizing the procurement activity.
 - 1) Supplies. The CPO shall procure all supplies exceeding \$25,000. In addition the CPO shall procure:
 - A) Printing ~~at~~ exceeding \$10,000; and
 - B) regardless of price:
 - i) Employee benefits authorized under the State Employees Group Insurance Act or the Personnel Code;
 - ii) Financing of any procurement;
 - iii) Paper, stationery, envelopes;
 - iv) Postage stamps;
 - v) Property, casualty, liability and other insurance, and bonds;
 - vi) All telecommunications material, equipment, software and related goods. (Equipment used to provide data communications internal to a building is considered to be Local Area Network equipment and is therefore excluded from this provision.);
 - vii) Utilities for buildings managed by the CPO; vehicles.
- 2) Services. The CPO shall procure the following services:
 - A) Electronic data processing services including, but not limited to, consulting and professional and artistic services, exceeding \$25,000 ~~for~~00;
 - B) Regardless of price, all telecommunications related services including, but not limited to:
 - i) voice, data, video, and internet working services delivered from private and or public network services, dedicated and/or virtual networking. Wide Area Networking and/or Metropolitan Area Networking, local exchange services, long distance services, radio frequency derived communications services (e.g., cellular, PCS, land mobile, microwave, etc., service);
 - ii) repairs, additions, relocations, or related changes to

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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telecommunication services;
 iii) consulting, professional and artistic services
 relating to telecommunications issues regardless of
price.

c) Vehicles related services, including but not limited to,
 fleet management and repairs, regardless of price.
 3) Real Estate. The CPO shall procure all leases leases of real
 estate and any capital improvements to the leased real estate for
 the use of State agencies, regardless of price.

c) Central Procurement Procedures

- 1) Purchase Requests

For purchases that are reserved to the CPO, each agency must initiate the procurement process through submission of a purchase request to the CPO. The CPO shall designate the format and requirements for submission.

2) Chief Procurement Officer's Authority to Reject

When the CPO, after consultation with the requesting agency, decides that processing the purchase request is clearly not in the best interest of the State, or that further review is needed, the CPO shall return such purchase request to the requesting agency. A statement of the reasons for its return shall accompany the returned request. Examples of reasons a purchase request may be returned include, but are not limited to:

 - A) the request can be satisfied from existing State inventory or State contracts;
 - B) the request exceeds agency needs;
 - C) the needs requested could be procured more economically at a different time without detriment to the State; or
 - D) the quality requested is inconsistent with State standards and usage.

3) Determination of Contractual Terms and Conditions

The CPO has authority to determine the terms and conditions of solicitations and contracts. The CPO will consult with the requesting agency if the agency requests special terms and conditions.

d) The CPO may, after consultation with and notice to any affected SPO, use central procurement procedures for items in addition to those listed in this Section upon its determination that such procedures are likely to result in significant efficiencies or economies.

e) The CPO and the CPOs of the construction agencies will determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.

f) The CPO, as Director of the Department of Central Management Services, has additional duties and responsibilities established in statute apart from the Code, and nothing in this Part shall be interpreted to limit those other statutory duties and responsibilities.

(Source: Amended at 24 Ill. Reg. 19-00, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

JAN 21 2001

NOTICE OF ADOPTED AMENDMENT

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

- 1.) Heading of the Part: The Travel Regulation Council
- 2.) Code Citation: 80 Ill. Adm. Code 3000
- 3.) Section Numbers: 3000.300 Amended
- 4.) Statutory Authority: Implementing and authorized by Sections 12-1, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12-1, 12-2 and 12-3]
- 5.) Effective Date of Rulemaking: January 2, 2000
- 6.) Does this rulemaking contain an automatic repeal date? No
- 7.) Does this rulemaking contain incorporations by reference? Yes
- 8.) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9.) Notice of Proposal Published in Illinois Register: August 20, 1999; 23 Ill. Reg. 9592
- 10.) Has JCAR issued a Statement of Objection to these amendments? No
- 11.) Differences between proposal and final version: Deleted the proposed amendment to Section 3000.400. This section was amended by emergency action at 23 Ill. Reg. 11332.
- 12.) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13.) Will this amendment replace an emergency amendment currently in effect? No
- 14.) Are there any amendments pending on this Part? No
- 15.) Summary and Purpose of Rulemaking: The amendment reflects the most current Federal Register publication in regard to reimbursement for the use of privately owned aircraft.
- 16.) Information and questions regarding this adopted amendment shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, Illinois 62706
(217) 782-9669

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE I: GENERAL TRAVEL CONTROL
 CHAPTER IV: TRAVEL REGULATION COUNCIL

PART 3000

THE TRAVEL REGULATION COUNCIL

SUBPART A: GENERAL

Section	Authority
3000.100	Philosophy
3000.110	Policy
3000.120	Scope and Interpretation
3000.130	Definitions
3000.140	Definitions

SUBPART B: TRAVEL CONTROL SYSTEM

Section	Travel Control System
3000.200	Designation of Headquarters
3000.210	Expenses at Headquarters or Residence
3000.220	Preparation and Submission of Vouchers or Travel Expenses
3000.230	Subpart C: TRANSPORTATION

SUBPART C: TRANSPORTATION

Section	Modes of Transportation
3000.300	Routing

SUBPART D: LODGING

Section	Lodging Allowances
3000.400	Least Costly Lodging
3000.410	Conference Lodging
3000.420	Employee Owned or Controlled Housing

SUBPART E: PER DIEM-MEALS

Section	Per Diem Allowance
3000.500	Meal Allowance

SUBPART F: MISCELLANEOUS RULES

Section	Reimbursable and Non-Reimbursable Expenses
3000.600	Reimbursable and Non-Reimbursable Expenses

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES	3000.610 Expenses Related to Transportation
SUBTITLE I: GENERAL TRAVEL CONTROL	3000.620 Receipts Required
CHAPTER IV: TRAVEL REGULATION COUNCIL	3000.630 Meals for Other Persons

SUBPART G: EXCEPTIONS

Section	Exceptions to the Rules
3000.700	Board-Agency Rules
3000.710	Non-Required Travel

APPENDIX A Reimbursement Schedule

AUTHORITY:	Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].
SOURCE:	Emergency rules adopted at 10 Ill. Reg. 12697, effective July 2, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 18188, effective January 1, 1987; peremptory amendment at 11 Ill. Reg. 14854, effective August 25, 1987; amended at 12 Ill. Reg. 11626, effective July 1, 1988; amended at 14 Ill. Reg. 10014, effective July 1, 1990; amended at 19 Ill. Reg. 7852, effective July 1, 1995; amended at 20 Ill. Reg. 7372, effective May 13, 1996; amended at 21 Ill. Reg. 9025, effective July 1, 1996; amended at 21 Ill. Reg. 8899, effective July 1, 1997; amended at 22 Ill. Reg. 11713, effective July 1, 1998; emergency amendment at 23 Ill. Reg. 11332, effective August 27, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 245, effective December 27, 1999; emergency amendment at 24 Ill. Reg. 861, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. <u>19 0 8</u> , effective January 2, 2000.

SUBPART C: TRANSPORTATION

Section 3000.300 Modes of Transportation

- a) All travel shall be by the most economical mode of transportation available considering travel time, costs, and work requirements. Modes of transportation authorized for official travel include automobiles, railroads, airlines, buses, taxicabs, and other usual means of conveyance.
- b) State vehicles may be used when most economical. When applicable, Vehicle Rules (44 Ill. Adm. Code 5040) issued by the Department of Central Management Services shall govern use of State-owned vehicles. Agency rules further defining use of vehicles may also apply. Specific instructions covering service and repairs of these vehicles are to be found in the glove compartment of each vehicle.
- c) Arrangements on airplanes, trains, or boats shall be the least costly reasonably available alternative.
- d) Chartered aircraft, boats, trains, buses, or other such conveyance, shall be used only as a last resort or if proven to be most economical

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

for the circumstances. A full explanation for the use of such transportation must accompany the voucher.

e) The rental of an automobile while on travel status is allowed, if circumstances require. The most economical vehicle available that is suitable for the State's business shall be obtained. The collision damage waiver and personal accident insurance on rented vehicles are not reimbursable.

f) Privately owned vehicles may be used when authorized by appropriate agency personnel.

1) Employees using private vehicles on State business must have insurance coverage in an amount not less than that required by Section 10-101(b) of the Illinois Vehicle Code [625 ILCS 5/10-101(b)]. Prior to such authorization the Agency Head shall require employees to file a statement certifying that they are duly licensed and carry at least the minimum insurance coverage or shall require such certification to be noted on the travel voucher.

2) Reimbursement for use of a private vehicle shall be on a mileage basis and shall be in accordance with the rate promulgated pursuant to 5 USC 878-87 5707(b)(2) and is shown in Appendix A, Reimbursement Schedule. However, in the event the rate set under federal regulations changes during the course of the State's fiscal year, the effective date of the new rate shall be the July 1 immediately following the change in the federal rate.

g) Agency Heads may authorize the use of privately owned aircraft on State business.

1) Employees using privately owned aircraft on State business shall be duly licensed by the appropriate licensing body for the particular aircraft to be flown, shall carry insurance in at least the amount of \$500,000 combined single limit, and shall certify this to the Agency Head. Such certification shall be available for review and shall be noted on the travel voucher.

2) Reimbursement for the use of privately owned aircraft may be set by the individual Boards, but shall not exceed the rate set by the Federal Government pursuant to 5 USC 878-87 5707(b)(2) and 41 CFR 301-4.2(a)(2), as revised September 8, 1998 (May 23, 1996, Federal Register, Vol. 63, #173 Vol. 61 #101, Government Printing Office). No later amendments or editions shall act to vary this rate.

(Source: Amended at 24 Ill. Reg. 1908 effective JAN - 2, 2000)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

1) Heading of the Part: Welfare-to-Work Block Grant Program

2) Code Citation: 56 Ill. Adm. Code 2665

3) Section Numbers: 2665.10
2665.20
2665.30
2665.40
2665.50
2665.60
2665.70
2665.80
2665.90

4) Statutory Authority: Implementing Section 46.19 of the Civil Administrative Code of Illinois [20 ILCS 605/46.19] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

5) Effective Date of Rules: January 21, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: Published at 23 Ill. Reg. 814 on January 22, 1999.

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version:

1) The following language in Section 2665.20 in the definition of "Long-term TANF recipient" was added after "program": "or its predecessor, AFDC".

2) In Section 2665.20, the definition of "non-custodial parent" was changed to read:

"Non-custodial Parent means a person who meets each of the following requirements:

is a non-custodial parent of a minor child;

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

the minor child's custodial parent, or the minor child, is a TANF recipient; and

meets the Welfare-to-Work criteria."

- 3) The following language was inserted as the first definition in Section 2665.20: "AFDC means Aid to Families with Dependent Children.".
- 4) The following language was added to Section 2665.40(a)(2)(B) after "funds": "for Welfare-to-Work purposes". Grammatical changes were also made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: These rules specify the legislative base, needed definitions, allocation of funds, allowable programs and activities, local plan development and approval process, eligibility requirements, cost limitations, performance management measures and reporting requirements for the Welfare-to-Work Grant Funds required by the Balanced Budget Act of 1997.
- 16) Information and questions regarding these adopted rules shall be directed to:

Raya Bogard
Administrative Code Rules Manager
Illinois Department of Commerce and Community Affairs
620 East Adams
Springfield, IL 62701
(217) 785-6285

The full text of the adopted rules begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2665
WELFARE-TO-WORK BLOCK GRANT PROGRAM

Section	Legislative Base	Definitions	Allocation of Funds	Allowable Programs and Activities	Plan Development and Approval	Eligibility Requirements	Cost Limitations	Performance Management	Reporting and Recordkeeping Requirements
2665.10									
2665.20									
2665.30									
2665.40									
2665.50									
2665.60									
2665.70									
2665.80									
2665.90									

AUTHORITY: Implementing Section 46.19 of the Civil Administrative Code of Illinois [20 ILCS 605/46.19] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 2612, effective January 16, 1998, for a maximum of 150 days; emergency expired June 15, 1998; adopted at 24 Ill. Reg. 19 1 3, effective JAN 1 2001.

Section 2665.10 Legislative Base

- a) On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a comprehensive welfare reform bill, under which the Temporary Assistance to Needy Families (TANF) program was established to supersede the Aid to Families with Dependent Children (AFDC) welfare program, the Job Opportunities and Basic Skills (JOBS) Training program, and the Emergency Assistance (EA) program. The TANF program at Section 401(a) of the Social Security Act established the following objectives:
 - 1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
 - 2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - 3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
 - 4) encourage the formation and maintenance of two-parent families.
- b) On August 5, 1997, the President signed the Balanced Budget Act of 1997. This legislation amended certain TANF provisions of the Social Security Act and authorized the Secretary of Labor to provide Welfare-to-Work (wtw) grants to states and local communities for

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

transitional employment assistance to move the hard-to-employ TANF welfare recipients into unsubsidized jobs and economic self-sufficiency.

Section 2665.20 Definitions

The definitions specified in the U.S. Department of Labor Interim Rules on Welfare-to-Work (Federal Register, 11/18/97, 20 CFR 645) are applicable.

AFDC means Aid to Families with Dependent Children.

Authorized to Work in the United States means participation in programs and activities that are limited to United States citizens, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other persons authorized by the Attorney General to work in the United States.

Chief Elected Official (CEO) means:

the chief elected official of the sole unit of general local government in the service delivery area;

the individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative; or

in the case of a service delivery area designated under section 101(a)(4)(A)(iii) of the Job Training Partnership Act, the representative of the chief elected official for such area (as defined in section 4(4)(C) of the Job Training Partnership Act).

Department means the Illinois Department of Commerce and Community Affairs (DCCA).

DHS means the Illinois Department of Human Services.

DPA means the Illinois Department of Public Aid.

Exceeded TANF Duration Limit means an individual who would otherwise be eligible to receive TANF assistance but is no longer receiving such assistance because the individual has reached the federal or State limit on receipt of assistance.

GED means a certificate of General Equivalency Degree.

HHS means the United States Department of Health and Human Services.

IEFC means Illinois Employment and Training Center.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

Job Training Partnership Act (JTPA) means Public Law 97-300, as amended, 29 USC 1501, et seq.

Limited Education means an individual who has not completed secondary school or obtained a GED degree, and has reading or mathematics skills at or below grade level 8.9.

Long-term TANF Recipient means an individual who has received assistance under the TANF program or its predecessor, AFDC, for at least 30 months (whether or not consecutive).

Non-custodial Parent means a person who meets each of the following requirements:

is a non-custodial parent of a minor child;

the minor child's custodial parent, or the minor child, is a TANF recipient; and

meets the Welfare-to-Work criteria.

Pending TANF Termination means the individual will, within 12 months, become ineligible for TANF assistance by reason of a durational limit on such assistance, without regard to any exemption that may apply to the individual under Section 408(a)(7)(C) of the federal Interim Final Rule.

Poor Work History means having worked no more than 13 consecutive weeks in unsubsidized full-time employment in the prior 12 calendar months.

Private Industry Council (PIC) means the council established pursuant to Section 102 of the Job Training Partnership Act (29 USC 1512, December 31, 1982).

Resident of Service Delivery Area (SDA) means participants must be residents of the SDA's jurisdiction.

Service Delivery Area (SDA) means an area comprised of one or more units of general local government designated by the Governor pursuant to Section 101(a)(4) of the Job Training Partnership Act.

Temporary Assistance for Needy Families (TANF) means a program established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

USDOL means the United States Department of Labor.

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NOTICE OF ADOPTED RULES

Welfare-to-Work Administrative Agency means the legal entity (e.g., governmental, educational, or community-based organization) selected by the JTPA Private Industry Council to serve as grant recipient for Welfare-to-Work funds.

Welfare-to-Work (WtW) Block Grant Program means the Welfare-to-Work grant provisions of Title IV, Part A of the Social Security Act, as amended by the Balanced Budget Act of 1997.

Section 2665.30 Allocation of Funds

Pursuant to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Balanced Budget Act of 1997, the following formula will be used by the Department of Commerce and Community Affairs to allocate 85 percent of the funds allotted to the State under the Welfare-to-Work Block Grant Program. Allocations shall be made on the basis of Service Delivery Areas (SDAs) designated under the Federal Job Training Partnership Act (JTPA):

a) Preliminary Allocation: A preliminary allocation shall be made for all JTPA SDAs using the following criteria and weights:

1) Excess Poverty: 50% shall be allocated in proportion to the number by which the population of the SDA with an income that is less than the poverty line exceeds 7.5% of the total population of the SDA, relative to such number of all SDAs in the State with an excess.

2) Long Term Recipients: 50% shall be allocated in proportion to the number of individuals residing in the SDA who have been welfare recipients under the Temporary Assistance to Needy Families program (TANF) and/or the predecessor program, Aid to Families with Dependent Children (AFDC), for at least 30 months relative to such individuals residing in the State.

b) Final Allocation: Pursuant to the requirements of the Federal Balanced Budget Act of 1997, in the event that the preliminary allocation for an SDA is less than \$100,000, such preliminary allocations shall be excluded from the final allocation and reduce the total amount of funds allocated by substrate formula. These funds shall be added to the remaining 15% of the grant funds for projects that appear likely to help long-term recipients of TANF assistance enter unsubsidized employment.

Section 2665.40 Allowable Programs and Activities

a) The following are the authorized programs and associated activities for the Illinois Welfare-to-Work Block Grant Program.

- 1) Job Search/Job Readiness Program includes:
 - A) job search, which means a structured search for a job, including counseling, job seeking skills training, and information obtained individually or in a group setting; and

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B) job readiness assistance, which consists of classroom or group activities designed to help an individual obtain and maintain employment. Under TANF, job readiness services and job search activities contain a combined service limit of four consecutive weeks, or six weeks total in a 12 month period.

2) Job Placement Services Program involves the direct placement of the participant in an unsubsidized position. Allowable Activities include:

- A) unsubsidized private sector employment, which means employment in the private sector not financed from federal or State funds; and
- B) unsubsidized public sector employment, which means employment in the public sector not financed from federal or State funds for Welfare-to-Work purposes.

3) Work Testing Program, which is no more than a 30-day fully subsidized trial period during which the employer can observe the WtW participant in a work setting, and the participant can test his/her job readiness skills while receiving support services and counseling. The employer is expected to hire the client upon completion. Work Testing may be repeated if necessary but participants are limited to a total of six months subsidized employment during participation in this program. Allowable Activities include:

- A) subsidized private sector employment, which means employment in the private sector partially or fully supported by federal or State funds, limited to six months in length;
- B) subsidized public sector employment, which means employment in the public sector partially or fully supported by federal or State funds, limited to six months in length.

4) Community Service Program involves unpaid service at a public or private, not-for-profit work site. Allowable Activities include:

- A) community service programs, which are unpaid work assignments with public or private, not-for-profit employers, organizations and governmental agencies; and
- B) providing child care services, which means provision of child care services for an individual participating in a community service program.

5) Paid Work Experience Program involves paid, subsidized service at a public or private, not-for-profit worksite, limited to six months in length.

6) On-The-Job Training Program (OJT), which is training at a private or public sector worksite provided to a participant who has been referred to and hired by the employer. OJT occurs while the participant is engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job. OJT may be sequenced with, or accompanied by, other types of training such as classroom training or literacy training. OJT

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Placements are limited to six months in length, unless participation is less than 500 hours in duration. Post Employment Educational Program includes, but is not limited to, basic educational skills training, occupational skills training, or English as a second language training. Allowable activities include:

- A) vocational education training, which means classroom or other group training activities whose purpose is to increase or develop the vocational skills of a participant;
- B) job skills training directly related to employment, which means individual, classroom, or other group training activities developed to help employed participants remain on the job or enable them to upgrade existing skills;
- C) education directly related to employment for individuals with no high school diploma or GED, which means educational activities developed to help employed participants, who lack a high school diploma or GED, retain a job; and
- D) satisfactory school attendance for individuals with no high school diploma or GED, which means satisfactory school attendance, as determined by the SDA in cooperation with the local school system.

- 8) Post Employment Job Retention Services Program, which means any post-employment services that are not educational in nature, including:
 - A) work regimen acclamation, which means the process of getting a participant to understand what work he/she is to perform; who will provide instructions and work orders; the starting, break, meal and stopping times; when his/her first and subsequent paychecks will be received; procedures for leaving the work area for personal, telephone or other purposes; and other work rules not provided by the employer;
 - B) stress coping, which means the application of remedies to remove or ease the personal stress experienced by participants in their work environment. This stress may be brought on by interactions with others while working, or by the participant's changed role as a parent, partner, or friend, or by the humbling experience of following orders of a boss or being hazed by other workers, or by a personal attitude brought to the workplace by the participant or another worker;
 - C) job loss intervention, which means interceding actions of arbitration and remediation with either or both the participant and employer at a time when the participant is at risk of losing or leaving his/her job or when the process of employment departure is occurring, or providing support and articulation of the learning embedded in the experience at a time immediately following a job loss occurrence;
 - D) personal support, which means the delivery of supportive

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services needed to remove or ameliorate barriers to continued employment of the participants. This group of actions ensures that there is no gap in service delivery to overcome personal barriers; that is, participant access to the service is not restricted, the service is the most appropriate resolution and service delivery is timely, as needed; and

- E) job enhancement, which means activating the delivery of services, both supportive and educational, needed to solidify continued employment of the participant in his/her job and start the building of a foundation of advancement. This activity includes the acquisition of tools for the participant to become more proficient in his/her work or gain acceptance by his/her peers; the acquisition of skills needed to enhance work performance; and the acquisition of additional skills, knowledge and abilities for promotional opportunities.
- 9) Support Services Program, which means any support activities necessary to allow the participant to obtain or retain employment that are not provided for through the Illinois Department of Human Services, including:
 - A) child care, which means client services to ensure that dependent children are properly cared for during the period of time client is in training or at work;
 - B) transportation, which means services provided to a client to permit his/her participation in training or work by ensuring he/she has the ability to make the trip from his/her residence to the training/employment site and child care site if necessary, and back. Assistance may include the cost of public transportation or mileage reimbursement;
 - C) other supportive services, which means services that are necessary and made available to participants eligible for training under this Act, but who cannot afford to pay for such services, to enable them to participate in a program under this Act and to aid in their retention in a job gained through participation;
 - D) financial counseling, which means financial counseling services provided to clients to enable them to participate in a training program under this Act or to retain employment gained through such participation;
 - E) personal counseling, which means personal counseling services provided to clients to enable them to participate in a training program under this Act or to retain employment gained through such participation;
 - F) rent assistance, which means assistance provided to participants to maintain or obtain adequate shelter for themselves and their families while they are receiving employment, training or other supportive service; and

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G) substance abuse treatment, which means treatment for drug and alcohol abuse to the extent that such services are not medical and not otherwise available to the participant, such as, services performed by those not in the medical profession, including counselors, technicians, social workers, and psychologists, and services not provided in a hospital or clinic, including 24 hour care programs. Substance abuse treatment may be considered non-medical.

b) No Welfare-to-Work Administrative Agency or sub-contractor may itself operate a program serving WtW clients solely to provide job readiness, placement or post-employment services.

Section 2665.50 Plan Development and Approval

a) In order to receive an allocation as described in Section 2665.30 of this Part, each Welfare-to-Work Administrative Agency shall submit a Welfare-to-Work plan to the Department that includes the following content:

- 1) The Plan shall include a description of the program design, including the following information:
 - A) The plan shall include a description of the local targeting strategies to reach hard-to-employ TANF recipients eligible under the Welfare-to-Work Block Grant program and to assure that appropriate activities and services are provided to help these participants achieve self-sufficiency.
 - B) The plan shall include a description of local strategies regarding:
 - i) planned employment activities;
 - ii) planned use of contracts with public and private providers of job readiness, placement and post-employment services for placement, readiness, and post-employment services; and
 - iv) planned provision of job retention, and/or support services, if not otherwise available to the individual participants receiving Welfare-to-Work services.

C) The plan shall include a description of local policies and procedures that will govern implementation of allowable activities, including the procedures used to procure the contracts described in subsection 2665.50(a)(1)(B)(ii) of this Section, and how Welfare-to-Work funds will be used to provide necessary support services described in subsection 2665.50(a)(1)(B)(iv).

D) The plan shall include a listing of performance goals and outcomes, expressed in measurable, quantifiable terms, that the local program intends to achieve.

E) The plan shall include a description of how the local program will be implemented by the PIC, including the roles

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and responsibilities of the local entities responsible for program administration and the program's implementation target dates.

F) The plan shall include a description of the approach, including process and timing, used to obtain and take into account consultation and coordination with substate entities such as public, private and nonprofit organizations in the development of the SDA Welfare-to-Work plan. The plan shall include either a summary description of the comments received, along with the names of the individuals or entities who commented, or copies of the actual comments received as an attachment to the plan.

G) The plan shall include a description of the coordination efforts that the local DHS office and the Welfare-to-Work Administrative Agency will undertake and the role these local agencies will play in providing assessment and case management to qualified participants, regarding:

- i) identification and referral of participants; and
- ii) assessment and case management.

H) The plan shall include coordination arrangements with DPA to identify and refer non-custodial parents meeting the WtW criteria.

I) The plan shall include a description of strategies to prevent duplication of services and promote coordination among the Welfare-to-Work program, the local TANF program, JTPA, the local Illinois Employment & Training Centers and other employment and training programs throughout the Service Delivery Area.

J) The plan shall include a description of strategies to promote and encourage coordination with the Illinois Department of Transportation, transit operators and other transportation providers to help ensure that the transportation needs of those moving from welfare to work are met.

K) The plan shall include a description of strategies to promote and encourage coordination with the Illinois Housing Development Authority; public and assisted housing providers and agencies; other community based organizations; public and private health, mental health and service agencies; and vocational rehabilitation and related agencies.

2) The plan shall include budget information regarding the expenditure of program funds, quarterly planned expenditures and planned carry-forward, including the following information:

- A) The plan shall include a list of funds available by cost category as defined in 20 CFR 645.220, 645.225, 645.230, 645.235, including the original allocation, carry-in funds (if any), cost category transfers and planned carry-forward of funds not expected to be spent during the current federal

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B) Pursuant to 20 CFR 645.240 and 645.245, the plan shall include a listing of quarterly planned expenditures by cost category, including:

- i) administrative costs as defined in 20 CFR 645.235(b);
- ii) support services as defined in 20 CFR 645.220(e);
- iii) data processing expenditures as defined in 20 CFR 645.235(c)(3); and
- iv) programmatic activities.

b) Pursuant to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Balanced Budget Act of 1997, the following assurances must be provided for local plan approval:

- 1) The plan must conform to the requirements of the TANF Act.
- 2) The plan must conform to the U.S. Department of Labor Interim Rules on Welfare-to-Work (Federal Register, 11/18/97, 20 CFR 645).
- 3) The plan must demonstrate local coordination with activities provided through TANF (section 403(a)(5)(A)(vii)(II) of the Act).

c) Each Welfare-to-Work Administrative Agency shall submit a co-enrollment plan showing planned enrollments (if any) into programs designed to serve different subsets of the welfare population, or used concurrently or sequentially in order to provide a series of services to individuals with specific needs. It shall further define the appropriate reasons for dual enrollment of individuals in more than one of the following programs: Illinois Job Advantage, Work First, TANF Welfare-to-Work ("85% funds formula allocated to the Administrative Agency), TANF Welfare-to-Work ("15% State set-aside funds), Job Training Partnership Act, and DHS Job Placement Contracts.

- 1) Where a WtW Administrative Agency has one or more subcontractors that enroll WtW clients to provide services, the WtW Administrative Agency shall collect co-enrollment schedules prepared by each subcontractor if these clients are also enrolled in another of these programs.
- 2) Where a WtW Administrative Agency enrolls and provides WtW services itself, the WtW Administrative Agency shall develop a co-enrollment plan of services for welfare recipients enrolled under WtW who are also enrolled in another of the programs listed in this Section.
- 3) If neither a WtW Administrative Agency nor its subcontractors enroll their WtW clients in another of the programs listed in this Section, only a Welfare-to-Work Client Service Declaration Form is required.

Section 2665.60 Eligibility Requirements

- a) Persons eligible to receive services under the Welfare-to-Work program must meet the eligibility requirements of subsection 2665.60(a)(1) or

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(a)(2) of this Section.

- 1) Participants under the Long-term Targeted TANF Recipients Program must be:
 - A) authorized to work in the United States,
 - B) a resident of the SDA in which served,
 - C) a long-term TANF recipient, or pending TANF termination due to a durational limit, or exceeding a TANF duration limit, and
 - D) either:
 - i) have two of the following three characteristics: limited education, requires substance abuse treatment for employment, poor work history, or
 - ii) be a non-custodial parent of a minor child of a TANF recipient whose custodial parent meets one of the criteria in subsection (a)(1)(C). The non-custodial parent only needs to meet the criteria in subsection (a)(1)(A), (a)(1)(B) and (a)(1)(D) above as long as the custodial parent meets the other criteria.
- 2) Participants under the Long-term Dependency Characteristics Program must be:
 - A) authorized to work in the United States,
 - B) a resident of the SDA in which served,
 - C) have one or more long-term dependency characteristics, as defined in subsection (a)(1)(D) above, and
 - D) either:
 - i) is a TANF recipient, or
 - ii) is a non-custodial parent of a minor child of a TANF recipient, or
 - iii) exceeded a TANF duration limit.
- 3) SDAs are responsible for ensuring that participants served with WtW funds meet federal eligibility criteria. Procedures to accurately determine and appropriately document eligibility must include:
 - 1) arrangements with the TANF agency to ensure that the determination is based on information current at the time of determination about whether an individual is receiving TANF assistance, the length of receipt of such assistance, and when an individual may become ineligible for assistance due to reaching a duration limit on assistance;
 - 2) determination of barriers to employment and long-term welfare dependency characteristics that may be based on information collected by the SDA or by the TANF agency no more than six months prior to eligibility determination;
 - 3) arrangements with the TANF agency to identify the non-custodial parents of TANF recipients who may be eligible for the program; and
 - 4) arrangements with the TANF agency to determine whether an individual who is not receiving TANF would be eligible to receive assistance if not for the fact that the individual had reached a

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c) Once an individual begins receiving WtW services, the SDA is not required to redetermine eligibility.

Section 2665.70 Cost Limitations

Pursuant to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Balanced Budget Act of 1997, the following cost limitations shall apply:

a) At least 70 percent of the WtW funds allotted to or awarded to a Welfare-to-Work Administrative Agency must be spent to benefit hard-to-employ individuals, as described in Section 2665.60(a)(1) of this Part.

b) Not more than 30% of the WtW funds allotted to or awarded to a Welfare-to-Work Administrative Agency may be spent to assist individuals with long-term welfare dependency characteristics, as described in Section 2665.60(1)(2) of this Part.

c) If less than 30% of the funds are spent to assist individuals with long-term welfare dependency characteristics, the remaining funds shall be spent to benefit hard-to-employ individuals pursuant to subsection (a) of this Section.

d) The limitation of expenditures for administrative purposes will in no case be more than 15% of the grant award.

Section 2665.80 Performance Management

The Department shall evaluate the overall ability of each Welfare-to-Work Administrative Agency to implement the local WtW plan described at Section 2665.50 and shall use the following performance measures to judge the success of local programs:

a) Unsubsidized Employment Rate (UER). The UER is defined as the percent of time, measured in months, that WtW participants meet the work participation requirement of TANF due to unsubsidized employment.

b) Substantial Earnings Rate (SER). The SER shall be defined as the percent of WtW participants who achieve a level of earnings due to unsubsidized employment equal to three times their TANF cash assistance payment, as a percent of all WtW participants.

c) Cost Per Placement (C/P). The C/P shall be measured as the total WtW grant expenditures divided by the number of qualifying job placements (i.e., placement in an unsubsidized job of at least 100 hours scheduled work per month).

d) PIC-Work Participant Rate (PIC-WPR). The PIC-WPR is the sum of months eligible WtW participants are enrolled in TANF work activities (i.e., activities that count toward meeting the State TANF work participation rate) divided by the sum of months all WtW participants are enrolled in the program.

Section 2665.90 Reporting and Recordkeeping Requirements

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The Interim Final Rule for the Welfare-to-Work Block Grant Program, issued by USPDL, provides in Section 645-240 for a reporting procedure in which there is shared responsibility at the federal and State levels. States will report financial information directly to USPDL for the WtW programs. Participant information shall be reported to DHS, which will submit this information, along with other TANF data, to HHS. To support federal reporting requirements, Welfare-to-Work Administrative Agencies must collect information from WtW participants and report this information on a monthly basis into the Department's Management Information System. Information to be collected shall include:

- a) basic identifying information;
- b) demographic characteristics;
- c) educational status;
- d) barriers to employment;
- e) work history;
- f) labor force status;
- g) status information regarding receipt of TANF benefits;
- h) support service needs;
- i) participation in WtW activities; and
- j) grant expenditures.

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- 1) Heading of the Part: Interior Design Profession Title Act
- 2) Code Citation: 68 Ill. Adm. Code 1255
- 3) Section Numbers:

1255.15	<u>Adopted Action:</u> Repealed
1255.20	Amendment
1255.30	Amendment
1255.50	Amendment
1255.65	New Section
1255.70	Amendment
1255.80	Amendment
- 4) Statutory Authority: Interior Design Profession Title Act [225 ILCS 310]
- 5) Effective Date of Amendments: January 19, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: October 8, 1999, at 23 Ill. Reg. 12295
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: Section 1255.85 concerning professional conduct standards has been removed.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect?
Yes, at 24 Ill. Reg. 872.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendments: Public Act 91-454, effective January 1, 2000, replaces the Act's statutory fees with fees set by administrative rule; this rulemaking adds Section 1255.65 to accomplish that change. Section 1255.15 is repealed since the language is obsolete. In Section 1255.30 all interior design programs will be required to include 8 design courses as a part of the curriculum. Various technical revisions have also been made.

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TITLE 6B: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1255

INTERIOR DESIGN PROFESSION TITLE ACT

Section 1255.10 Application for Registration Under Section 8(c) of the Act (Grandfather) (Repealed)

1255.15 Application for Registration as a Residential Interior Designer Under Section 8(c-5) of the Act (Grandfather) (Repealed)

1255.20 Application for Registration

1255.30 Approved Programs of Interior Design

1255.40 Full-time Diversified Professional Experience

1255.50 Endorsement

1255.60 Renewal

1255.65 Fees

1255.70 Inactive Status

1255.80 Restoration

AUTHORITY: Implementing the Interior Design Profession Title Act [225 ILCS 310] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 17411, effective November 19, 1991, for a maximum of 150 days; adopted at 16 Ill. Reg. 3194, effective February 18, 1992; amended at 19 Ill. Reg. 7614, effective May 26, 1995; emergency amendment at 24 Ill. Reg. 872, effective December 31, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 1928, effective JAN 19 2000.

Section 1255.15 Application for Registration as a Residential Interior Designer Under Section 8(c-5) of the Act (Grandfather) (Repealed)

a) Any person seeking registration as a residential interior designer without examination under Section 8(c-5) of the Residential Interior Designer Profession Title Act (the Act) shall file an application with the Department of Professional Regulation (the Department) on forms provided by the Department. The application shall be postmarked no later than midnight September 30, 1995, and shall include the following:

i) Verification on forms provided by the Department, or documentation of:

A) At least 5 years of full-time diversified professional experience in residential interior design as defined in Section 3 of the Act and Section 1255.80 of this Part; or

B) A combination of full-time diversified professional

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experience as defined in Section 3 of the Act and Section 1255.40 of this Part and interior design education as set forth in Section 1255.80 to equal 5 years;

2) A complete work history;

3) The required fee set forth in Section 8(c) of the Act; and

4) Certification on forms provided by the Department from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant was predominantly practicing and is currently registered/licensed if applicable, stating:

A) The time during which the applicant was registered in that jurisdiction including the date of the original issuance of the registration;

B) A description of the examination in that jurisdiction and whether the file on the applicant contains any record of disciplinary actions taken or pending;

C) Education shall be from an accredited college, school or university offering a program in interior design and include the curriculum set forth in Section 1255.36;

D) Experience shall be documented in one or more of the following ways:

1) Certification of experience on forms provided by the Department;

2) Submission of 3 affidavits from clients or colleagues familiar with the applicant's work;

3) Submission from one of the following professional interior design organizations that the applicant has an active professional status in the organization: American Society of Interior Designers (ASID); the Interior Design Society (IDS); the International Interior Designer Association (IIDA); Institute of Store Planners (ISP); and the Governing Board for Contract Interior Design Standards; the Board of Interior Design Professionals (the Board); has determined that 3 years of credit toward education and experience will be granted on applicant who holds professional status in one of these organizations;

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking registration shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information;

(Source: Repealed JAN 19 2000 at 24 Ill. Reg. 1928, effective JAN 19 2000)

Section 1255.20 Application for Registration

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a) An applicant for registration as an interior designer or a residential interior designer shall file an application, on forms provided by the Department, which includes the following:

- 1) Certification submitted to the Department from:
 - A) The National Council for Interior Design Qualifications (NCIDQ) indicating the successful completion of the NCIDQ examination for an interior design license;
 - B) The Council for Qualifications of Residential Interior Designers (CQRID) indicating the successful completion of the CQRID examination for a residential interior design license;
- 2) Proof of Education/Experience
 - A) Certification of graduation and official transcripts from a 5 year interior design program as set forth in Section 1255.30 and, at least 2 years of full-time diversified interior design experience as defined in Section 3(f) of the Act and Section 1250.40 of this Part; or
 - B) Certification of graduation and official transcripts from an approved 4 year interior design program and at least 2 years of full-time diversified interior design experience as defined in Section 3(f) of the Act and Section 1250.40 of this Part; or
 - C) Certification of completion and official transcripts of at least 3 years of interior design curriculum from an approved program and, at least 3 years of full-time diversified interior design experience as defined in Section 3(f) of the Act and Section 1250.40 of this Part; or
 - D) Certification of graduation and official transcripts from an approved 2 year interior design program and at least 4 years of full-time diversified interior design experience as defined in Section 3(f) of the Act and Section 1250.40 of this Part; or
 - E) For a residential interior designer license, certification of a high school diploma or G.E.D. plus 5 years of full-time diversified residential interior design experience;
- 3) A complete work history; and
- 4) The fee required by Section 1255.65 of this Part ~~1255.65~~-of-the Act.

b) An individual who holds an active license as an architect in Illinois pursuant to the Illinois Architecture Practice Act of 1989 [225 ILCS 305] shall be issued a certificate of registration as an interior designer or a residential interior designer without examination as provided in Section 8(d) of the Act upon an application to the Department upon payment of a fee of \$40.00.

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Section 1255.30 Approved Programs of Interior Design

a) The Department shall, upon recommendation of the Board, approve an interior design program if it meets the following minimum criteria:

- 1) The educational institution is/was legally recognized and authorized, through appropriate agencies such as a ministry of education or higher education governing board, by the jurisdiction in which it is located at the time the degree/certificate was obtained to confer any of the degrees/certificates required for registration in accordance with Section 8 of the Act;
- 2) Permanent student records are maintained by the institution which summarize the credentials for admission, attendance, grades and other records of performance;
- 3) The program has a designated director and a sufficient number of instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by degrees in their area(s) of teaching from professional colleges or institutions;
- 4) The curriculum is at least 2 academic years that provides educational experience with practical application encompassing
 - A) Drafting
 - B) Two-Dimensional Design
 - C) Three-Dimensional Design
 - D) Design and Composition Fundamentals
 - E) Color Theory
 - F) Fundamentals of Residential Design
 - G) Fundamentals of Non-Residential Design
 - H) Building Systems
 - I) Materials
 - J) Codes and Ordinances
 - K) Presentation Skills
 - L) Business Practices and Management
 - M) History of Art, Architecture and Design
 - N) Computer Aided Drafting and Design
 - O) Lighting
- 5) A 2 year program shall include 8 4 or more of the above courses set forth in subsection (a)(4) above and be a minimum of 40 60 semester hours;
- 6) A 3 year program shall include 8 6 or more of the above courses set forth in subsection (a)(4) above and be a minimum of 90 semester hours;
- 7) A 4 or 5 year program shall include 8 or more of the courses set forth in subsection (a)(4) above and be a minimum of 120 semester hours.

b) In determining whether a program should be approved, the Department shall take into consideration, but not be bound by, accreditation or approval by the Foundation for Interior Design Education Research

(Source: Amended at 24 Ill. Reg. 1928 effective JAN 9/00)

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(FIDER).
 c) The Department has determined that all interior design programs accredited or approved by FIDER as of July 1, 1995, meet the minimum criteria set forth in this Section and are, therefore, approved.

(Source: Amended at	24	111.	Reg.	<u>1928</u>	<u>7</u>
JAN 19 2001					

on 1255.50 Endorsement

a) An applicant who is licensed/registered under the laws of another state or territory of the United States or of a foreign country and who wishes to register as an interior designer or residential interior designer shall file an application with the Department, on forms provided by the Department, which includes:

- 1) Certification of an interior design or residential interior design degree from a program approved by the Department in accordance with Section 1255.30 of this Part;
- 2) Certification of professional experience as set forth in Section 1255.40 of this Part;
- 3) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed/registered and any location in which the applicant predominantly practices and is currently licensed/registered, stating:

 - A) The time during which the applicant was licensed/registered;
 - B) Whether the file of the applicant contains any record of disciplinary actions taken or pending; and
 - C) Examination(s) taken and examination score(s) received;

- 4) A complete work history; and
- 5) The required fee as set forth in Section 1255.65 ~~1255.65~~ of—the

b) In lieu of subsection (a)(1) and (2), the Department shall accept certification from the National Council for Interior Design Qualification and Council for Residential Interior Designers.

c) The Department may require additional information to determine:

- 1) if the requirements in the state, territory of the United States or foreign country at the time the applicant was licensed/registered were substantially equivalent to the requirements then in effect in Illinois; or
- 2) if the requirements of another state, territory of the United States or foreign country together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application.

d) The Department, upon recommendation of the Board, shall determine substantial equivalence based on, but not limited to, certification from the National Council of Interior Design Qualifications or Council

Section 1255.50 Endorsement

a) An applicant who is licensed/registered under the laws of another state or territory of the United States or of a foreign country and who wishes to register as an interior designer or residential interior designer shall file an application with the Department, on forms provided by the Department, which includes:

- 1) Certification of an interior design or residential interior design degree from a program approved by the Department in accordance with Section 1255.30 of this Part;
- 2) Certification of professional experience as set forth in Section 1255.40 of this Part;
- 3) Certification from the state or territory of the United States or the foreign country in which the applicant was originally licensed/registered and any location in which the applicant predominantly practices and is currently licensed/registered, stating:
 - A) The time during which the applicant was licensed/registered;
 - B) Whether the file of the applicant contains any record of disciplinary actions taken or pending; and

Examinations taken and examination scores received;

4) A complete work history; and
5) The required fee as set forth in Section 1255.65 (5)(a)-(5)(d)-of--the
Act.

b) In lieu of subsection (a)(1) and (2), the Department shall accept certification from the National Council for Interior Design Qualification and Council for Residential Interior Designers. The Department may require additional information to determine:

1) if the requirements in the state, territory of the United States or foreign country at the time the applicant was licensed/registered were substantially equivalent to the requirements then in effect in Illinois; or

2) if the requirements of another state, territory of the United States or foreign country together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application.

d) The Department, upon recommendation of the Board, shall determine substantial equivalence based on, but not limited to, certification from the National Council of Interior Design Qualifications or Council

NOTICE OF ADOPTED AMENDMENTS

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for Residential Interior Designers; education, training, and experience, including, but not limited to, whether the applicant has had special honors or awards, has had articles published in professional journals, or has written textbooks relating to interior design; and any other attribute which the Director of the Department accepts as evidence that the applicant has outstanding and proven ability in interior design.

The Department shall either issue registration by endorsement or notify the applicant in writing of the reasons for denying the application.

(Source: Amended **JAN 19 2001**)

Section 1255-65 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees. The fee for application for a certificate of registration as an interior designer or residential interior designer is \$100. In addition, applicants for an examination shall be required to pay either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a certificate of registration shall be calculated at the rate of \$30 per year.

General Fees.

- 1) The fee for the restoration of a certificate of registration other than from inactive status is \$20 plus payment of all lapsed renewal fees, but not to exceed \$200.
- 2) The fee for the issuance of a duplicate certificate of registration, for the issuance of a replacement certificate of registration, for a certificate of registration that has been lost or destroyed or for the issuance of a certificate of registration with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate certificate of registration is issued.
- 3) The fee for a certification of a registrant's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.

DEPARTMENT OF PROFESSIONAL REGULATION

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6) The fee for a roster of persons registered as interior designers or residential interior designers in this State shall be the actual cost of producing the roster.

(Source: Added at 24 Ill. Reg. 128-3, effective JAN 1, 2001)

Section 1255.70 Inactive Status

- a) Registered interior designers or registered residential interior designers who notify the Department in writing on forms provided by the Department may elect to place their registration on inactive status and shall be excused from the payment of renewal fees until they notify the Department in writing of the desire to resume active status.
- b) Any registered interior designer or registered residential interior designer seeking restoration from inactive status shall do so in accordance with Section 1255.80 ~~1255.90~~ of this Part.
- c). Any person whose registration is on inactive status shall not use the title "interior designer" or "residential interior designer" in the State of Illinois.

(Source: Amended at 24 Ill. Reg. 128-3, effective JAN 1, 2001)

Section 1255.80 Restoration

- a) Any interior designer or residential interior designer whose registration has expired or has been placed on inactive status for 5 years or less may have the certificate of registration restored by paying the fees required by Section 1255.65 ~~1255.90~~-~~of-the-Act~~.
- b) Any person seeking restoration of a certificate of registration which has been expired or placed on inactive status for more than 5 years shall file an application on forms supplied by the Department, for review by the Board, together with the fee required by Section 1255.65 ~~1255.90~~-~~of-the-Act~~. The applicant shall also submit at least one of the following:
 - 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice;
 - 2) An affidavit attesting to military service as provided in Section 9 of the Act;
 - 3) Proof of passage of the NCIDQ examination for an interior designer license during the period the registration was lapsed or on inactive status; or
 - 4) Proof of passage of the CQID examination for a residential

DEPARTMENT OF PROFESSIONAL REGULATION

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interior design license during the period the registration was lapsed or on inactive status.

- c) When the accuracy of any submitted documentation, or the relevance of sufficiency of the course work or experience is questioned by the Department, because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant seeking restoration of a registration shall be required to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Explain such relevance or sufficiency during an oral interview;
 - 3) Appear for an interview before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act.
 - d) Upon the recommendation of the Board, and approval by the Director, an applicant shall have his/her registration restored or be notified in writing of the reason for denying the application.

(Source: Amended at 24 Ill. Reg. 128-3, effective JAN 1, 2001)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Transportation of Hazardous Materials; Driving and Parking

2) Code Citation: 92 Illi. Adm. Code 397

3) Section Numbers:
397.1010
397.1020

4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]

5) Effective Date of Amendments: January 19, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and in the Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 10, 1999, 23 Illi. Reg. 10962

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

In Section 397.1010(c), the Department clarified that this part does not apply to the transportation in Illinois of hazardous material by a farmer when in approved containers and in the amounts and manner specified in 92 Illi. Adm. Code 171.22, Agricultural Exemption.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this part? No

15) Summary and Purpose of Amendment: At Section 397.1010(c), the Department updated the reference to the agricultural exception found in the federal regulations. Additionally, the Department updated the date of incorporation by reference of 49 CFR 397 as of October 1, 1998. Finally, the heading of the Part is revised for consistency with 49 CFR 397.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1161

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 397
TRANSPORTATION OF HAZARDOUS MATERIALS: DRIVING AND PARKING

Section 397.1000 General
397.1010 Application
397.1020 Incorporation By Reference of 49 CFR 397

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397. Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990; amended at 15 Ill. Reg. 13158, effective August 21, 1991; amended at 18 Ill. Reg. 736, effective January 11, 1994; amended at 19 Ill. Reg. 13035, effective August 30, 1995; amended at 20 Ill. Reg. 15327, effective November 18, 1996; amended at 23 Ill. Reg. 5090, effective March 31, 1999; amended at 24 Ill. Reg. 1933, effective JAN 19 [00].

Section 397.1010 Application

- a) This Part applies to each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
 - 1) Each officer or employee of the motor carrier who performs supervisory duties related to the transportation of hazardous materials; and
 - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- b) Each person designated in subsection (a) must know and obey the rules in this Part.
- c) This Part does not apply to the transportation in Illinois of hazardous materials by a farmer when in approved containers and in the amounts and manner specified in 92 Ill. Adm. Code 171.22, Agricultural Exception. This Part does not apply to the transportation of hazardous materials cited in 92 Ill. Adm. Code 171.57, agricultural exception when such commodities are transported from state to state to agricultural end users or between farmers and users from farm-to-farm-in approved containers and in the amounts and manner specified.

(Source: Amended JAN 19 [00] at 24 Ill. Reg. 1938, effective JAN 19 [00])

DEPARTMENT OF TRANSPORTATION

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Section 397.1020 Incorporation By Reference of 49 CFR 397

a) The Department incorporates "transportation of Hazardous Materials: Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCWR) (49 CFR 390, 391, 392, 393, 395, and 397) that was in effect on October 1, 1998 ~~1997-as amended-at-63-PR-332547-June-107-1998~~, subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated.

b) 49 CFR Section 397.1 is deleted and not incorporated.

c) 49 CFR Section 397.2 is deleted and not incorporated.

d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

e) The following addition to 49 CFR 397 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended JAN 19 [00] at 24 Ill. Reg. 1938, effective JAN 19 [00])

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Heading of the Part: Driving of Commercial Motor Vehicles

Code Citation: 92 Ill. Adm. Code 392

Section Numbers: 392.2000

Amend
Adopted Action:

4) Statutory Authority: Implementing and authorized by Sections 180-102 and 180-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]

5) Effective Date of Amendment: January 19, 2000

6) Does this amendment contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and in the Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 10, 1999, 23 Ill. Reg. 10366

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: By this Notice of Adopted Amendment, the Department has updated the date of incorporation by reference of 49 CFR 392 as of October 1, 1998. Additionally, the heading of this Part has been amended for consistency with the heading of 49 CFR 392.

16) Information and questions regarding this adopted amendment shall be directed to: Ms. Cathy Allen, Regulations Unit

Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212 (217) 785-1181

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

a) "Driving of Commercial Motor Vehicles" (49 CFR 392) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCVR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1998-~~as amended at 63 FR-332547 June-18-1998~~. No later amendments to or editions of 49 CFR 392 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCVR.

c) The following addition to 49 CFR 392 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the drivers out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

negative

Appendix at 24

negative

19. *Ulmus* *glabra* L. (Ulmaceae) (Fig. 19)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Hours of Service of Drivers2) Code Citation: 92 Ill. Adm. Code 3953) Section Numbers: 395.20004) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]5) Effective Date of Amendment: January 19, 20006) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? Yes8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and Office of Chief Counsel and is available for public inspection.9) Notice of Proposal Published in Illinois Register: September 10, 1999, 23 Ill. Reg. 1096910) Has JCAR issued a Statement of Objection to these amendments? No11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

At Section 395.2000(c)(3)(A), the Department added levels 4 and 5 Commercial Vehicle Inspections (as defined in 92 Ill. Adm. Code 390) and clarified that the State Police's presentation of a Vehicle Inspection Report to the driver of a motor carrier constitutes official notification that the driver is out-of-service.

An Agency note was added at the end of the rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.13) Will this amendment replace an emergency amendment currently in effect? No14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: By this Notice of Adopted Amendment, the Department has updated the date of incorporation by reference of 49 CFR 395 as of October 1, 1998. The Department has also, among other things, added an Agency Note to cross reference the rules on public utility exemptions for commercial motor vehicles owned or operated by a

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

1) Heading and found at 92 Ill. Adm. Code 386.16) Information and questions regarding this adopted amendment shall be directed to:Ms. Cathy Allen
Regulations UnitIllinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181The full text of the adopted amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 395
 HOURS OF SERVICE OF DRIVERS

Section 395.1000 General

395.2000 Incorporation by Reference of 49 CFR 395

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15507, effective September 10, 1990; amended at 15 Ill. Reg. 13161, effective August 21, 1991; amended at 16 Ill. Reg. 14425, effective September 8, 1992; amended at 18 Ill. Reg. 743, effective January 11, 1994; amended at 19 Ill. Reg. 13041, effective August 30, 1995; amended at 20 Ill. Reg. 15335, effective November 18, 1996; amended 19 ²³ 4 ⁷ Ill. Reg. 5096, effective March 31, 1999; amended at 24 Ill. Reg. 19 ⁴ 20 ⁷ effective JAN 19 2000.

Section 395.2000 Incorporation by Reference of 49 CFR 395

- a) "Hours of Service of Drivers" (49 CFR 395) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396 and 397) that was in effect on October 1, 1998 ~~as-amended-at-63-PR-992547-due 10-1-1998~~, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
 - 1) 49 CFR Sections 395.1(h)(1) and 395.1(l)(1) are deleted and not incorporated.
 - 2) 49 CFR Section 395.1(e) as it applies to intrastate carriers is amended to establish that drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status. (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(d)])
 - 3) 49 CFR Section 395.13 is not incorporated and the following substituted therefor:
 - A) Authority to declare drivers out-of-service due to any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police

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officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, ~~or~~ 3, ~~4~~ or 5 (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(3)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that declaring the driver out-of-service is warranted. Notification to the motor carrier is accomplished when the Illinois State Police officer presents the Illinois Commercial Driver/Vehicle Inspection Report (Form ISP 5-238) to the driver.

- B) Out-of-Service Criteria
 - i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.
 - ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.
 - iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.
 - C) Responsibilities of motor carriers
 - i) No motor carrier shall:
 - Require or permit a driver who has been declared out-of-service to operate a commercial motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395;
 - Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this Section. The consecutive eight hour off duty period may include sleeper berth time.
 - ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver/Vehicle Inspection Report) and deliver the copy of the Form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.
 - D) Responsibilities of the Driver:
 - i) No driver who has been declared out-of-service shall operate a commercial motor vehicle until that driver

DEPARTMENT OF TRANSPORTATION

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may lawfully do so under the requirements of 49 CFR 395.

iii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this Section.

iii) A driver to whom form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.

iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of commercial motor vehicles.

4) Part 395 shall not apply to agricultural movements that are engaged in intrastate commerce during planting and harvesting season as defined in 92 Ill. Adm. Code 390.1020. (Section 18b-105(c)(6) of the Law) 66-ER-14677-Apri-37-1996

5) Part 395 shall not apply to all farm to market agricultural transportation as defined in 92 Ill. Adm. Code 390.1020 that is engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)

6) Part 395 shall not apply to any grain hauling operations that are engaged in intrastate commerce within a radius of 200 air miles of the normal work reporting location. (Section 18b-105(c)(6) of the Law)

Agency Note: See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from the IMCSR for applicable intrastate public utility commercial motor vehicles.

(Source: Amended January 2001 at 24 Ill. Reg. 19-4-4, effective

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Inspection, Repair and Maintenance

2) Code Citation: 92 Ill. Adm. Code 396

3) Section Numbers: 396.2000
396.2010

4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B)

5) Effective Date of Amendments: January 19, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and Office of Chief Counsel.

9) Notice of Proposal Published in Illinois Register: September 10, 1999, 23 Ill. Reg. 1094

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has updated the date of incorporation by reference of 49 CFR 396 as of October 1, 1998.

16) Information and questions regarding this adopted amendment shall be directed to: Ms. Cathy Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 396
INSPECTION, REPAIR AND MAINTENANCE

Section	
396.1000	General
396.2000	Incorporation by Reference of 49 CFR 396
396.2010	Inspection of Vehicles in Operation

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15512, effective September 10, 1990; amended at 15 Ill. Reg. 13167, effective August 21, 1991; amended at 16 Ill. Reg. 14431, effective September 8, 1992; amended at 18 Ill. Reg. 749, effective January 11, 1994; amended at 19 Ill. Reg. 13046, effective August 30, 1995; amended at 20 Ill. Reg. 15340, effective November 18, 1996; amended at 21 Ill. Reg. 5101, ~~Jan 1997~~ March 31, 1999; amended at 24 Ill. Reg. 1949 ~~1949~~, effective _____.

Section 396.2000 Incorporation by Reference of 49 CFR 396

- The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, ~~1998~~^{as amended at 63-PR 392547-June 10, 1998, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated.}
- References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this part.
 - 49 CFR Section 396.9 is deleted and not incorporated.
 - Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) [625 ILCS 5/13-109] has complied with the periodic inspection procedures required by 49 CFR 396.17.

(Source: ~~January 2000~~ at 24 Ill. Reg. 1949 ~~1949~~, effective _____)

Section 396.2010 Inspection of Vehicles in Operation

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

a) Personnel authorized to perform inspections. The Illinois State Police are authorized to enter upon and perform commercial vehicle inspections (as defined in 92 Ill. Adm. Code 390.1020) of motor carrier vehicles in operation.

b) Prescribed inspection report - the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) shall be used to record results of motor vehicle inspections conducted by Illinois State Police personnel.

c) Motor Vehicles declared "Out-of-service."

- 1) Authorized Illinois State Police personnel shall declare and mark "out-of-service" any motor vehicle which meets the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020. An "out-of-service" vehicle sticker shall be used to mark vehicles "out-of-service."
- 2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term "operate" as used in this subsection shall include towing the vehicle, except that vehicles marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out-of-service" vehicle shall not be operated until such combination meets the performance requirements of the MCSR except for those conditions noted on the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238).
- 3) No person shall remove the "out-of-service vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out-of-service notice."

d) Motor Carrier's disposition.

- 1) The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his/her arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
- 2) Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.
- 3) Within 15 days following the date of the inspection, motor carriers shall certify that all violations noted have been corrected by completing the reverse side of the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) and returning it to the Illinois State Police Commercial Vehicle Enforcement Bureau's address indicated on the report.
- 4) The motor carrier shall retain a copy of the ISP 5-238 at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.

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- 1) Heading of the Part: Motor Carrier Safety Regulations: General
- 2) Code Citation: 92 Ill. Adm. Code 390
- 3) Section Numbers:

Adopted Action:	Amended
390.1000	Amended
390.1020	Amended
390.1030	Amended
390.2000	Amended
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] (see P.A. 91-179, effective January 1, 2000).
- 5) Effective Date of Amendments: January 19, 2000
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and in the Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 10, 1999, 22 Ill. Reg. 10979
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

The following changes were made in agreement with JCAR and the Code Division:

The Department made various grammatical changes throughout the Part.

In Section 390.1020, the definitions of "Level 4 - Special Inspections", "Level 5 - Vehicle-Only Inspection," "Commercial Vehicle Safety Alliance (CVSA)", and "Illinois Motor Carrier Safety Regulations (IMCSR)" were added. Mexico was added as recognizing CVSA's North American Uniform Out-of-Service Criteria. It recognizes that local law enforcement officers, as well state and federal, can enforce the criteria. The definition of Commercial Motor Vehicle was modified to reflect recent statutory changes (recognizes gross vehicle weight and gross combination weight in determining whether a vehicle must adhere

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- 1) to commercial vehicle regulations.
- 2) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 3) Will these amendments replace an emergency amendment currently in effect?
- 4) Are there any amendments pending on this Part? No
- 5) Summary and Purpose of Amendments:
By this Notice of Adopted Amendments, the Department has amended Part 390 as follows:
- At Section 390.1010, the Department revised the Part heading for 92 Ill. Adm. Code 397 as referenced in subsection (a). This change is consistent with the heading of 49 CFR 397. At subsection (f)(2), a provision concerning accident-reporting requirements has been removed to be consistent with the removal of the provision from 49 CFR 390. Lastly, with respect to Section 390.1010, an Agency Note has been added to cross-reference the pending rules on public utility exemptions for commercial motor vehicles owned or operated by a public utility and found at 92 Ill. Adm. Code 386.
- At Section 390.1020, the Department updated the citations to the CFR to reference the October 1, 1998 edition, updated several definitions to maintain consistency with the federal regulations, corrected citations to the Illinois Vehicle Code throughout this Section, and amended the definition of "commercial motor vehicle" as required by Public Act 91-179, effective January 1, 2000.
- At Section 390.1030, the Department removed language that was removed from 49 CFR 390. At Section 390.2000, the Department updated the date of incorporation by reference of 49 CFR 390, subparts B and D to the October 1, 1998 edition.
- Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

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The full text of the adopted amendments begins on the next page:

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TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 390

MOTOR CARRIER SAFETY REGULATIONS: GENERAL

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section	Purpose
390.1000	General Applicability
390.1010	Definitions
390.1020	Rules of Construction
390.1030	

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section	Incorporation by Reference
390.2000	

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] (see P.A. 91-19, effective January 1, 2000).

SOURCE: Adopted at 14 Ill. Reg. 15519, effective September 10, 1990; amended at 15 Ill. Reg. 13171, effective August 21, 1991; amended at 16 Ill. Reg. 14435, effective September 8, 1992; amended at 18 Ill. Reg. 754, effective January 11, 1994; amended at 18 Ill. Reg. 10362, effective June 15, 1994; amended at 19 Ill. Reg. 13050, effective August 30, 1995; amended at 20 Ill. Reg. 15344, effective November 18, 1996; amended at 23 Ill. Reg. 5105, effective March 31, 1999; amended at 24 Ill. Reg. 1954, effective JAN 19 2000.

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section 390.1000 Purpose

This Part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/Ch. 18B]. The Illinois Motor Carrier Safety Regulations (IMCSR) consists of 92 Ill. Adm. Code 386, 390, 392, 393, 395, 396, and 397.

(Source: Amended at 24 Ill. Reg. 1954, effective JAN 19 2000)

Section 390.1010 General Applicability

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a) All Parts of the IMCSR MESR except for "Transportation of Hazardous Materials; Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:

- Persons employing drivers, drivers and commercial motor vehicles which transport property or passengers in interstate or intrastate commerce. (Section 18b-106 of the Law)
- 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
 - 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
 - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- The provisions of 92 Ill. Adm. Code 397 do not apply to the transportation in Illinois of hazardous materials by a farmer when in approved containers and in the amounts and manner specified in 92 Ill. Adm. Code 171.22, Agriculture Exception.
- Nothing in the IMCSR MESR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.
- The IMCSR MESR requires knowledge of and compliance with the following:
 - 1) Every employer shall be knowledgeable of and comply with all requirements contained in the IMCSR MESR which are applicable to that motor carrier's operations.
 - 2) Every driver and employee shall comply with all applicable requirements contained in the IMCSR MESR and shall be instructed accordingly.
 - 3) All motor vehicles, equipment and accessories required by the IMCSR MESR shall be maintained in compliance with all applicable performance and design criteria also set forth in the IMCSR MESR.
- Except for provisions in Section Paragraph 13-101 of the Illinois Vehicle Code [625 ILCS 5/13-101] or unless otherwise specifically provided, the requirements in the IMCSR MESR do not apply to:
 - 1) All school bus operations as defined in Section 390.1020 of this Part;
 - 2) Transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States;--the--accident--recordkeeping requirements--of--49-CFR-390.15--remain--applicable--to--the--entities identified-in--this--subsection--when--engaged--in--the--interstate charter-transportation-of-passengers;
 - 3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
 - 4) The transportation of human corpses or sick and injured persons;

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5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations.

Agency Note: See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from the IMCSR for intrastate public utility commercial motor vehicles.

(Source: Amended at 24 Ill. Reg. 1954, effective JAN 19 2000)

The following definitions apply to all parts in the IMCSR unless a specific part expressly defines a term different than what is used below:

"Accident" means:

Except as provided below, an occurrence involving a commercial motor vehicle operating on a highway that which results in:

A fatality;

Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The term accident does not include:

An occurrence involving only boarding and alighting from a stationary motor vehicle; or

An occurrence involving only the loading or unloading of cargo. (49 CFR 390.5, October 1, 1998) (63-PR-932547-June 10, 1998)

"Agricultural movements" means the operation of a motor vehicle or combination of vehicles controlled and operated by a private motor carrier of property that is using the vehicle to transport nonhazardous or hazardous agricultural crop production fertilizers or agricultural chemicals from a local source of supply to farm or field, or from one farm or field to another, or from farm or field back to the local source of supply. (Section 1-101.6 of the Illinois Vehicle Code (the Code). [625 ILCS 5/1-101.6]) (Section-#8b-#1-of-the-#-law)

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"Alcohol concentration" (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. Federal--Motor--Carriers--Safety
Regulations--General (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, 1998 1997)

"Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to, hotels, banks, or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (Section 1-108 of the Code Illinois-Vehicle-Code-the-Code) (625-1105-5-1-008)

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Commerce" means trade, commerce or transportation within the State.

"Commercial motor vehicle (CMV)" means any self propelled or towed vehicle used on public highways in interstate and intrastate commerce to transport passengers or property when the vehicle has a gross vehicle weight, a gross vehicle weight rating, a gross combination weight, or a gross combination weight rating of 10,001 or more pounds (4,537 or more kilograms); or the vehicle is designed to transport more than 15 passengers, including the driver; or the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. This definition shall not include farm machinery, fertilizer spreaders, and other special agricultural movement equipment described in Section 3-809 of the Code nor implements of husbandry as defined in Section 1-130 of the Code. (Section 18b-101 of the Law, see P.A.

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As a minimum, North American Standard inspections must include examination of: driver's license, medical examiner's certificate and waiver if applicable, alcohol and drugs, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, brake system, steering mechanism, wheels and rims, tires, coupling devices, suspension, frame, fuel system, exhaust system, windshield wipers, lighting devices, safe loading, and hazardous material requirements as applicable. Uniform Out-of-Service Criteria.

Level 2 - Walk Around Driver/Vehicle Inspection: An examination that, as a minimum, includes: driver's license, medical examiner's certificate, and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, fire extinguisher, warning devices for stopped vehicles, head lamps, turn signals, stop lamps, windshield wipers, wheels, tires, fuel system, exhaust system, visible brake components, coupling devices, cargo securing, low air warning device, visible suspension components, and hazardous material requirements as applicable. It is contemplated that the walk-around driver/vehicle inspection will be conducted without inspecting underneath the vehicle.

Level 3 - Driver Only Inspection: A roadside examination of the driver's license, medical certification and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, and vehicle inspection report.

Level 4 - Special Inspections: Inspections under this heading typically include a one-time examination of a particular item. These examinations are normally made in support of a study or to verify or refute a suspected trend.

Level 5 – Vehicle-Only Inspection: An inspection that includes each the vehicle inspection items specified under the North American Standard Inspection (Level 1), without a driver present.

(Commercial Vehicle Manual, January 1996) Safety Alliance (CVSA), CVSA Operations

"Commercial Vehicle Safety Alliance (CVSA)" means the association of state/territory (United States), provincial/territory (Canada), and federal (Mexico) officials responsible for the administration and enforcement of motor carrier safety and hazardous materials laws in

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governments and industry to improve commercial vehicle safety. (CVSA Operations Manual, January 1996.)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or *nolo contendre* accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, 1998 ¶997)

"Department" means the Illinois Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents. (Section 1-115.05 of the Code) Section 10b-101 of-the-law

"Direct assistance" means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. (49 CFR 390.5, October 1, 1998 ¶997)

"Disabling damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Exclusions:

Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

Tire disablement without other damage even if no spare tire is available.

Headlamp or taillight damage.

Damage to turn signals, horn or windshield wipers which makes them inoperative. (49 CFR 390.5, October 1, 1998 ¶997)

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"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of "Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51(b)(2)(i)(A) or (B)) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, 1998 ¶997)

"Driveaway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more sets of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, October 1, 1998 ¶997)

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, 1998 ¶997)

"Emergency" means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout, or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

A declaration of an emergency by the President of the United States, the Governor of a state, or their authorized representatives having authority to declare emergencies; by the Regional Director of Motor Carriers for the region in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his designee; or

A request by a police officer for tow trucks to move wrecked or disabled motor vehicles. (49 CFR 390.5, October 1, 1998 ¶997)

"Emergency relief" means an operation in which a motor carrier or driver of commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this Section. (49 CFR 390.5, October 1, 1998 ¶997)

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"Employee" means:

A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, 1998 1997)

"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Federal Highway Administration (FHWA) in 49 CFR 372, subpart B. The descriptions are printed in Appendix F to the Federal Motor Carrier Safety Regulations. A driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, 1998 1997)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the ICC under "Miscellaneous Motor Carrier Transportation Exemptions" (49 USC 10526). "Exempt motor carriers" are subject to the requirements set forth in the Illinois Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, 1998 1997)

"Farm to market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who is a private motor carrier of property; who is using the vehicle to transport agricultural products to or from a farm operated by the farmer, or to transport farm machinery or farm supplies to or from a farm operated

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by the farmer; and who is not using the commercial vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with the Illinois Hazardous Materials Transportation Act. (Section 1-119.6 of the Code) ~~Section 10b-101-of-the-law~~

"Farm machinery" -- see definition of "Special Agricultural Movement Equipment" in this Section.

"Farm vehicle driver" means a person who drives only a commercial motor vehicle that is --

Controlled and operated by a farmer as a private motor carrier of property;

Being used to transport either --

Agricultural products, or

Farm machinery, farm supplies, or both, to or from a farm;

Not being used in the operation of a for-hire motor carrier;

Not carrying hazardous materials of a type or quantity that required the commercial motor vehicle to be placarded in accordance with 49 CFR 177.823; and

Being used within 150 air-miles of the farmer's farm.

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

Are owned by that person; or

Are under the direct control of that person. (49 CFR 390.5, October 1, 1998 1997)

"Fatality" means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident. (49 CFR 390.5, October 1, 1998 1997)

"Federal Highway Administrator" means the chief executive of the Federal Highway Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, 1998 1997)

"For-hire" means the operation of a vehicle for compensation and subject to federal regulation by the Interstate Commerce Commission or to State regulation by the Illinois Commerce Commission and those

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vehicles governed by Chapters 8 and 9 under the Code and regulated by the Secretary of State. (Section 1-122.5 of the Code) ~~Section 1-124 of-the-Code~~

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle. (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in Appendix A to 49 CFR 172.101, List of Hazardous Substances and Reportable Quantities ~~the "Hazardous Materials--Table and Hazardous Materials--Communications"~~ when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in Appendix A to 49 CFR 172.101. (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a state under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Highway" means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that

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the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitory signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates. (49 CFR 390.5, October 1, 1998) ~~69-PR-332547-697-1998~~

"Illinois Motor Carrier Safety Regulations (IMCSR)" means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397 (92 Ill. Adm. Code: Chapter I, Subchapter d).

"Illinois State Police" means any individual officer of the Illinois State Police.

"Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds, shall be included hereunder. (Section 1-130 of the Code)

"Interstate commerce" means transportation between two or more states or transportation originating in one state and passing into or through other states for delivery in another state. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois which is not described in the term "interstate commerce." (49 CFR 390.5, October 1, 1998 ~~1997~~)

"Law" means the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

"Medical Examiner" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. Pursuant to the Illinois Medical Practice Act [225 ILCS 60/], the term only includes doctors of medicine, doctors of osteopathy, and doctors of chiropractic.

"Motor carrier" means a for-hire motor carrier or a private motor carrier. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the IMCSR, the definition of "motor carrier" includes

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the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, 1998 1997)

"Motor--Carrier--Safety--Regulations--(MCSR)u--means--the--requirements established in Parts 3867-3907-3917-3927-3937-3957--396--and--397--t92 fili--Adm--Code--Chapter II--Subchapter d--t7.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, 1998 1997)

"Multiple-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. (49 CFR 390.5, October 1, 1998) t63-PR-332547-June-107 1998

"North American Uniform Out-Of-Service Criteria" means a set of guidelines established by the CVSA and recognized by all states, and the provinces of Canada, and Mexico as acceptable standards for identifying driver violations and critical vehicle inspection items that may render a driver, a commercial motor vehicle or a hazardous material load out-of-service. The criteria is enforced by qualified law enforcement officers of a municipality, state or the federal government.

"Operator" -- see driver.

"Other terms" -- any other term used in the MCSR MESR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the IMCSR MESR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, 1998 1997)

"Out-of-service order" means a declaration by the Illinois State Police or by an authorized enforcement officer of a Federal, State, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 49 CFR 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria as defined in this Section. (49 CFR 390.5, October 1, 1998 1997)

"Person" means any natural person or individual, governmental body,

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firm, association, partnership, copartnership, joint venture, company, corporation, joint stock company, trust, estate or any other legal entity or their legal representative, agent or assigns. (Section 18b-101(t5) of the Law)

"Planting and harvesting season" means the period of February 1 through November 30 each year.

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, for purposes of identification under this Subchapter d. The motor carrier must make records required by 49 CFR 382 and 49 CFR 387, as well as Parts 390, 391, 395, 396, and 397 of this Subchapter d, available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal or State holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Highway Administration or the Illinois Department of Transportation. (49 CFR 390.5, October 1, 1998) t63-PR-332547-June-107 1998

"Private motor carrier" means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier. (49 CFR 390.5, October 1, 1998 1997)

"Private motor carrier of passengers (business)" means a private motor carrier engaged in the interstate or intrastate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large. (49 CFR 390.5, October 1, 1998 1993)

"Private motor carrier of passengers (nonbusiness)" means a private motor carrier involved in the interstate or intrastate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). (49 CFR 390.5, October 1, 1998 1997)

"Radar detector" means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the driver's compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and

completely inaccessible to, inoperable by, and imperceptible to

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the driver while operating the commercial motor vehicle. (49 CFR 390.5, October 1, 1998 1997)

"Regional Director of Motor Carriers" means the Director of the Office of Motor Carriers, Federal Highway Administration, for a given geographical region of the United States. (49 CFR 390.5, October 1, 1998 1997)

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, 1998 1997)

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of the United States Department of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home or from such schools to home. (49 CFR 390.5, October 1, 1998 1997)

"School bus operation" means the use of a school bus to transport only school children and school personnel from home to school and from school to home and for intrastate sanctioned school functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Single-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis. (49 CFR 390.5, October 1, 1998 63-PR-33247-51ne-187-1998)

"Special agent" - See 49 CFR Appendix B to Subchapter B of Chapter III.

"Special agricultural movement equipment" means a vehicle of the second division having a corn sheller, a welder, hay press, clover huller, feed mixer and unloader or other farm machinery permanently mounted thereon and used solely for transporting the same, farm wagon type trailers having a fertilizer spreader attachment permanently mounted thereon, having a gross weight of not to exceed 36,000 pounds and farm wagon type tank trailers (i.e., nurse tanks) not to exceed 2,000 gallon capacity. Also includes any single unit self-propelled agricultural fertilizer implement, designed for both on and off road use, equipped with flotation tires and otherwise especially adapted for the application of plant food materials or

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agricultural chemicals. (Section 3-809 of the Code)

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, 1998 1997)

"Trailer" includes:

"Full trailer" means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, 1998 1997)

"Pole trailer" means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, 1998 1997)

"Semitrailer" means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing vehicle. (49 CFR 390.5, October 1, 1998 1997)

"Truck" means any self-propelled commercial motor vehicle except a truck tractor truck/tractor, designed and/or used for the transportation of property. (49 CFR 390.5, October 1, 1998 1997)

"Truck tractor truck/tractor" means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, 1998 1997)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, 1998 1997)

"US DOT" means the United States Department of Transportation. (Source: Amended at 24 111. Reg. 1998 1997)

Section 390.1030 Rules of Construction

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a) In the IMCSR MESR unless the context requires otherwise:

- 1) Words imparting the singular include the plural;
- 2) Words imparting the plural include the singular; and
- 3) ~~Words-imparting-the-masculine-gender-include-the-feminine-and~~
- 4) Words imparting the present tense include the future tense. (49 CFR 390.7, October 1, 1998 †997)

b) In the IMCSR MESR:

- 1) "Officer" includes any person authorized by law to perform the duties of the office;
- 2) "Writing" includes printing and typewriting;
- 3) "Shall" is used in an imperative sense;
- 4) "Must" is used in an imperative sense;
- 5) "Should" is used in a recommedatory sense;
- 6) "May" is used in a permissive sense; and
- 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, October 1, 1998 †997)

(Source: Amended at 24 Ill. Reg. 1054 —, effective JAN 1, 1998)

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section 390.2000 Incorporation by Reference

a) 49 CFR 390, subparts B and D are hereby incorporated by reference as those subparts of the Federal Motor Carrier Safety Regulations (FMCSR) were in effect on October 1, 1998 †997-as-amended-at-63-PR-33547 June-18-1998, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, subpart B and D are incorporated.

b) The following interpretations of, additions to and deletions from 49 CFR 390, subparts B and D shall apply for the purposes of this Subpart.

- 1) 49 CFR 390.9 is deleted and not incorporated.
- 2) 49 CFR Section 390.15 is not incorporated and the following is substituted therefor:

A motor carrier shall make all records and information pertaining to an accident available to an authorized representative or special agent of the Federal Highway Administration or Illinois Department of Transportation upon request or as part of any inquiry within such time as the request or inquiry may specify. A motor carrier shall give an authorized representative of the Federal Highway Administration or Illinois Department of Transportation all reasonable assistance in the investigation of any accident including providing a full, true and correct answer to any question of the inquiry.

3) 49 CFR 390.21 applies only to commercial motor vehicles engaged

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a) In interstate commerce.

- 4) Section 49 CFR 390.23(a)(2)(i) (A) is not incorporated and the following substituted therefor:
An emergency has been declared by a Federal, State or local government official having authority to declare an emergency, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his designee.
- 5) 49 CFR 390.25 applies only to commercial motor vehicles engaged in interstate commerce.
- 6) 49 CFR Section 390.29(b) is not incorporated and the following is substituted therefor:
All records and documents required by this Subchapter d that are maintained at a regional office or driver work-reporting location shall be made available for inspection upon request by a special agent or authorized representative of the Federal Highway Administration or Illinois Department of Transportation at the motor carrier's principal place of business or other location specified by the agent or representative within 48 hours after a request is made. Saturdays, Sundays, and Federal and State holidays are excluded from the computation of the 48-hour period of time.
- 7) 49 CFR 390.21 subpart D applies only to commercial motor vehicles engaged in interstate commerce.
- 8) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 390.
- 9) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
- 10) Any reference to a section in the incorporated material shall be read to refer to that Section in the IMCSR MESR.
- 11) Any reference to "Part 325 of Subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards." (49 CFR 325, October 1, 1998 †997)

(Source: Amended at JAN 1, 2001 at 24 Ill. Reg. 1054 —, effective JAN 1, 2001)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Parts and Accessories Necessary for Safe Operation
- 2) Code Citation: 92 Illi. Adm. Code 393
- 3) Section Numbers: 393.2000
Adopted Action:
Amended
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Amendment: January 19, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and in the Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 10, 1999, 23 Ill. Reg. 10999
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: By this Notice of Adopted Amendment, the Department has updated the date of incorporation by reference of 49 CFR 393 as of October 1, 1998 and has included the federal rulemaking adopted at 64 FR 15588, March 31, 1999. This rulemaking incorporates by reference changes made in the following Docket:

(64 FR 15588, March 31, 1999) amends the regulations to require motor carriers to install retroreflective tape or reflex reflectors on the sides and rear of semitrailers and trailers that were manufactured prior to December 1, 1993, that have an overall width of 80 inches or more, and that have a gross vehicle weight rating of 10,000 pounds or more.

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- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181
- The full text of the adopted amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 393

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Section

393.1000 General

Incorporation by Reference of 49 CFR 393

Section

393.2000 Incorporation by Reference of 49 CFR 393

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15537, effective September 10, 1990; amended at 15 Ill. Reg. 13185, effective August 21, 1991; amended at 18 Ill. Reg. 74, effective January 11, 1994; amended at 19 Ill. Reg. 13070, effective August 30, 1995; amended at 20 Ill. Reg. 15362, effective November 18, 1996; amended at 23 Ill. Reg. 5124, effective March 31, 1999; amended at 24 Ill. Reg. 1974, effective JAN 19 2000.

Section 393-2000 Incorporation by Reference of 49 CFR 393

a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1998, as amended at 64 FR 15588, March 31, 1999, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.

- 1) 49 CFR 393.93 shall not apply to those commercial motor vehicles engaged in intrastate commerce which were manufactured before June 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(c)(1)]).

- 2) 49 CFR 393.86 shall not apply for those vehicles registered as farm trucks under Section 3-815(c) of the Illinois Vehicle Code (the Code) [625 ILCS 5/3-815(c)] and utilized in intrastate commerce (Section 18b-105(c)(2) of the Law).
- 3) Authorized Illinois State Police shall place vehicles out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the vehicle out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

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NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Port District Development Program

2) Code Citation: 44 Ill. Adm. Code 740

3) Section Numbers:

740.101	<u>Adopted Action:</u>
740.102	Repeal
740.103	Repeal
740.104	Repeal
740.105	Repeal
740.106	Repeal
740.201	Repeal
740.202	Repeal
740.203	Repeal
740.301	Repeal
740.302	Repeal
740.303	Repeal
740.304	Repeal
740.401	Repeal
740.402	Repeal
740.403	Repeal
740.404	Repeal
740.501	Repeal
740.502	Repeal
740.503	Repeal
740.504	Repeal
740.505	Repeal
740.506	Repeal
740.507	Repeal
704.508	Repeal
740.509	Repeal
740.510	Repeal

4) Statutory Authority: Implementing and authorized by Section 49.06b of the Civil Administrative Code of Illinois [20 ILCS 2705/49.06b].

5) Effective Date of Repealer: January 19, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 15, 1999, 23 Ill. Reg. 12589

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10) Has JCAR issued a Statement of Objection to this repealer? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: This Part established the procedures for the administration of the Port District Development Grant Program. The purpose of the grant program was to assist port districts in becoming self-supporting units so the costs associated with water port activities would not exceed annual revenues from water port operations. FY 81 was the last year monies were available for a grant program for port districts. Therefore, the Department has repealed this Part.

16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 S. Dirksen Parkway, Room 300
Springfield, Illinois 62764
(217) 782-3215

Civil Administrative Code of Illinois [20 ILCS 2705/49.06b].

5) Does this repealer contain incorporations by reference? No

6) Does this rulemaking contain an automatic repeal date? No

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 15, 1999, 23 Ill. Reg. 12589

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedures and Enforcement2) Code Citation: 92 Ill. Adm. Code 3863) Section Numbers:
386.1010
386.1300
386.1310
386.1320
386.1330
386.1340
386.13504) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch.18B]5) Effective Date of Amendments: January 19, 20006) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and Office of Chief Counsel and is available for public inspection.

9) Notice of proposal Published in Illinois Register: September 10, 1999, 23 Ill. Reg. 1100310) Has JCAR issued a Statement of Objection to these amendments? No11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:
Various grammatical corrections were made throughout the Part.

At Section 386.1320(c), the Department revised the second sentence by changing the term "natural disaster" to "an emergency as defined in 92 Ill. Adm. Code 390.1020".

At Section 386.1340(c), the Department changed "therefor" to "for the termination".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes13) Will these amendments replace an emergency amendment currently in effect? No

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14) Are there any amendments pending on this Part? No15) Summary and Purpose of Amendments: By this Notice of Adopted Amendments, the Department has established procedures by which a public utility may obtain administrative relief from the Illinois Motor Carrier Safety Regulations (IMCSR) in the form of an exemption. A definition of "Public Utility" is added to Section 386.1010, and a new Subpart titled, "Subpart C: Public Utility Exemptions" is added to the Part.

This rulemaking was initiated at the request of an Illinois public utility. That utility requested the establishment of an exemption process that would alleviate the need for public utilities to have to contact the Department when an emergency (as defined in 92 Ill. Adm. Code 390.1020) warrants a request for relief from the IMCSR. The Department is acting within the Federal Highway Administration's guidelines found at 49 CFR 350, Appendix C: "Tolerance Guidelines for Adopting Compatible State Rules and Regulations" to establish exemptions from the IMCSR. New Subpart C establishes specific requirements for commercial motor vehicles having a Gross Vehicle Weight Rating of 26,000 pounds or less and that are not either designed to transport more than 15 passengers, including the driver, or not used to transport hazardous materials in an amount requiring placarding. Separate requirements for those commercial motor vehicles having a Gross Vehicle Weight Rating of more than 26,000 pounds are also set out in the new Subpart. Procedures for initial exemptions, renewals, as well as expiration and termination procedures are set out in the new Subpart. Finally, an appeals process is included for those applicants believing they have been wrongly denied an initial exemption or the renewal of an existing exemption.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen
Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS
PART 386
PROCEDURES AND ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	386.1000	Scope
	386.1010	Definitions
	386.1020	Service
	386.1030	Subpoenas

SUBPART B: ENFORCEMENT

Section	386.1040	Responsibility for Enforcement
	386.1050	Investigations
	386.1060	Inspection of Records and Motor Vehicles
	386.1070	Out of Service
	386.1080	Record of Inspection
	386.1090	Warning Letter
	386.1110	Maximum Penalties
	386.1120	Commencement of Civil Penalty Proceeding
	386.1130	Reply
	386.1140	Payment of Penalty
	386.1150	Request for Hearing
	386.1160	Hearing
	386.1170	Presiding Officer's Decision
	386.1180	Assessment Considerations
	386.1190	Appeal
	386.1200	Willful Violations

SUBPART C: PUBLIC UTILITY EXEMPTIONS

Section	386.1300	Purpose and Scope
	386.1310	Exemptions for a Public Utility
	386.1320	Initial Exemptions: Application and Review
	386.1330	Renewals
	386.1340	Expiration and Termination of an Exemption
	386.1350	Appeal

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

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NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 14 Ill. Reg. 15542, effective September 10, 1990; amended at 18 Ill. Reg. 778, effective January 11, 1994; amended at 19 Ill. Reg. 13073, effective August 30, 1995; amended at 23 Ill. Reg. 5128, effective March 31, 1999; amended at 24 Ill. Reg. 1980, effective [AN 19700].

SUBPART A: GENERAL PROVISIONS

Section 386.1010 Definitions

As used in this Part:

"Applicant" means a public utility that submits an application.

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety whose office is located at:

Illinois Department of Transportation
P.O. Box 19212
3215 Executive Park Drive
Springfield, Illinois 62794-9212 62793

"Division" means the Division of Traffic Safety of the Illinois Department of Transportation.

"Exemption" means a document issued under the authority of the Division that authorizes a person to perform a function that is not otherwise authorized under the Illinois Motor Carrier Safety Regulations.

"Illinois State Police" means any individual officer of the Illinois State Police.

"Materially" "Materially" means anything which relates to any substantive issue that is of consequence to the determination of a proceeding.

"Officer" means an employee of the Illinois Department of Transportation.

"Public Utility" means a firm lawfully licensed and engaged in any of the following: the transmission of telegraphic or telephone messages; the production, storage, transmission, distribution, sale, delivery, or furnishing of heat, cold, light, power, electricity, gas, or water; or the installation or repair of facilities for any of these activities.

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"Relevant" means having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without that information.

"Respondent" means a person upon whom the Department has served a Notice of Intent to Assess Civil Monetary Penalty or a Notice of Probable Violation.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Undue Delay" means delay which is unwarranted, unjustified, or improper.

(Source: Amended at 24 Ill. Reg. 1980, effective

SUBPART B: ENFORCEMENT

SUBPART C: PUBLIC UTILITY EXEMPTIONS

Section 386.1300 Purpose and Scope

This Subpart C prescribes procedures by which a public utility, as defined in Section 386.1010 and that is not subject to the federal Motor Carrier Safety Regulations, may obtain administrative relief from the Illinois Motor Carrier Safety Regulations (IMCSR) in the form of an exemption. Exemptions provided for in this Subpart C will be granted only when they insure levels of safety consistent with the public interest, with the Illinois Motor Carrier Safety Regulations, and with the tolerance guidelines established in 49 CFR 350, Appendix C.

(Source: Added at 24 Ill. Reg. 1980, effective

Section 386.1310 Exemptions for a Public Utility

- a) Only those intrastate public utility commercial motor vehicles and their drivers that meet the requirements of this Subpart C are eligible for an exemption.
- b) Upon application, public utility commercial motor vehicles operated solely in intrastate commerce as defined in 92 Ill. Adm. Code 300.1020 with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCR) of 26,000 pounds or less and that are not either designed to transport more than 15 passengers, including the driver, or used to transport hazardous materials in an amount requiring placarding, will be considered for an exemption from the Illinois Motor Carrier Safety Regulations with the exception of 92 Ill. Adm.

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Code 391 - Qualification of Drivers.

c) Upon application, drivers of solely intrastate public utility commercial motor vehicles having a GVWR or GCWR greater than 26,000 pounds will be considered for an exemption from some provisions of 92 Ill. Adm. Code 395 - Hours of Service of Drivers. The following subsections establish the requirements in lieu of 92 Ill. Adm. Code 395 for those drivers:

- 1) Expansion of the 10 hour driving rule limit to a 12 hour driving rule limit;
- 2) Increase the combination of driving time and on-duty but not driving time from 15 hours to 16 hours; and
- 3) Increase the current 60 hour rule to 70 hours in seven consecutive days and increase the 70 hour rule to 80 hours in eight consecutive days.

(Source: Added at 24 Ill. Reg. 1980, effective

Section 386.1320 Initial Exemptions: Application and Review

- a) A public utility may apply to the Director for an exemption from the IMCSR as described in Section 386.1310(b) and (c).
- b) Each application filed under this Section for an exemption must:
 - 1) Be submitted to:

Director, Division of Traffic Safety
Illinois Department of Transportation
3215 Executive Park Drive, P.O. Box 19212
Springfield, Illinois 62794-9212.
 - 2) Reference the exemption being sought under Section 386.1310;
 - 3) State the name, address, and telephone number of the applicant;
 - 4) Certify that the vehicles for which an exemption is sought are used for the delivery of essential utility services to the public;
 - 5) Certify that the public utility systematically inspects, repairs and maintains all commercial motor vehicles operating under the exemption as incorporated by reference in 92 Ill. Adm. Code 396. Parts and accessories shall be in safe and proper operating condition at all times. This Subpart C does not provide for exemption from the semi-annual inspection required by the Illinois Vehicle Inspection Law [625 ILCS 5/13-101 and 13-1091] for vehicles controlled by the public utility for 30 consecutive days or more, the utility must maintain or cause to be maintained records as incorporated by reference in 92 Ill. Adm. Code 396. If requested, the public utility must make these records available for inspection by an officer of the Department;
 - 7) Certify that the firm's drivers of the commercial motor vehicles

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fully comply with the driver qualification standards outlined in 92 Ill. Adm. Code 391;

8) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR of 26,000 pounds or less for which an exemption is requested;

9) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR greater than 26,000 pounds for which hours of service relief is requested;

10) Make available for inspection by an officer of the Department comprehensive fleet accident information for the previous two years and annual total fleet mileage (See 92 Ill. Adm. Code 390.1020 for definition of accident.);

11) Identify any increased risks that are likely to result if an exemption is granted, and specify the safety control measures that the applicant considers necessary or appropriate to compensate for those increased risks;

12) State the reasons why the applicant believes the requested exemption, including any safety control measures specified by the applicant, will achieve a level of safety that:

 a) Is at least equal to that specified in the IMCSR from which the exemption is sought; or

 b) If the IMCSR do not contain a specified level of safety, will be consistent with the public interest and will protect against the risks of life and property;

13) Certify that the transportation described in the requested exemption is not governed by the federal Motor Carrier Safety Regulations.

c) If the applicant seeks to have the application processed on a priority basis, the applicant must set forth the supporting facts and reasons. If the Director, or his/her designated officer, determines that the request warrants priority consideration because of an emergency as defined in 92 Ill. Adm. Code 390.1020, the application will be processed as timely as practicable.

d) To permit timely consideration, an application should be submitted at least 60 days before the requested effective date.

e) If the applicant states that the information contained in the application constitutes trade secrets or commercial or financial information, the applicant must include a statement as to why the information is privileged or confidential.

f) Upon receipt by the Division, the application will be date and time-stamped. The Division will determine whether the application is complete and in conformance with this Subpart C. Incomplete applications will be returned along with a letter containing the reasons the application is incomplete. In that case, the applicant will be requested to supply additional information or documentation. An applicant that does not supply such additional information or documentation will not be approved.

g) When the Division determines that the application is complete, an

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on-site visit will be conducted within 60 calendar days after receipt of that determination to verify that, for example, driver qualification requirements are being met and that the required vehicle repair, inspection and maintenance records are being maintained.

h) A decision regarding the granting of an exemption will be based upon the application and record assembled by the Division.

 i) A letter of approval will be mailed by the Director, or his/her designated officer, to the applicant granting the exemption. The exemption is effective for a two year period from the date of the approval letter.

 j) A letter of denial containing a statement of the reasons why the applicant has not been granted an exemption and the provisions of Subpart C that support the denial will be mailed to applicants denied exemptions. Applicants denied an exemption may:

 1) Correct deficiencies listed in the letter of denial and reapply if the application can be modified to meet the Department's objections as specified in the letter of denial; or

 2) Appeal the decision (see Section 386.1350 for appeal procedures).

 k) At any time there is a material change in the application or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Added at 24 Ill. Reg. 118 (1986), effective 1-18-86.)

Section 386.1330 Renewals

a) Each application for the renewal of an exemption issued under this Subpart C must be filed prior to the expiration of the exemption. To permit timely consideration, an application for renewal should be submitted at least 60 calendar days before the expiration of the exemption. An exemption that is allowed to lapse will not be considered a renewal. Initial application procedures as outlined in Section 386.1320 will apply in the case of lapsed exemptions. The exemption of an applicant that has timely filed an application for renewal will continue pending the consideration of the renewal.

b) Each application for the renewal of an exemption issued under this Subpart C must:

 1) Be submitted to:

 Director, Division of Traffic Safety
 Illinois Department of Transportation
 3215 Executive Park Drive, P.O. Box 19212
 Springfield, Illinois 62794-9212;

 2) Identify the exemption for which a renewal is requested.

 3) State the name, address, and telephone number of the applicant.

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- 4) Include:
 - a) A certification by the applicant that the information submitted in the original application, or as may have been updated by any subsequent application for renewal, is accurate and correct, or
B) Such amendments to the previously submitted information as is necessary to update it and assure its accuracy and correctness.
 - 5) Include a statement describing all accident experience that has occurred in connection with the exemption since its issuance or most recent renewal, or, if no accidents have occurred, a certification to that effect. (See 92 Ill. Adm. Code 390.1020 for the definition of accident.)
 - c) Upon receipt by the Division, the Division will date and time-stamp the application for renewal. The Division will determine whether the application is complete and in conformance with this Subpart C. The applicant will be requested to supply missing information or attachments.
 - d) When the Division determines that the application for renewal is complete, an on-site visit will be conducted within 60 calendar days after the determination to verify that, for example, driver qualification requirements are being met and that the required vehicle repair, inspection and maintenance records are being maintained.
 - e) A decision regarding the renewal of an exemption will be based upon the application and record assembled by the Division. Exemptions will not be renewed unless the record establishes that the applicant meets the requirements of this Subpart C.
 - f) A letter of approval will be mailed by the Director granting the renewal of the exemption. The renewal is effective for a two year period from the date of the approval letter.
 - g) A letter of denial containing a statement of the reasons why the exemption has not been renewed and the provisions of Subpart C that support the denial will be mailed to an applicant denied renewal.
 - h) Applicants denied a renewal may correct deficiencies listed in the letter of denial and reapply if the application for renewal can be modified to meet the Department's objections as specified in the letter of denial, or applicants may appeal the decision as provided for in Section 386.1350 of this Subpart C.
 - i) At any time there is a material change in the application for renewal or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Added 1/9/2000 at 24 Ill. Reg. 116, effective 1/1/00)

DEPARTMENT OF TRANSPORTATION

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- a) An exemption and any renewal expires according to its terms but not later than two years after the date of issuance unless terminated sooner pursuant to subsection (b) of this Section.
- b) The Director, or his/her designated officer, may terminate an exemption if the Director, or his/her designated officer, obtains any information evidencing that:
 - 1) Any activity under the exemption is not being performed in accordance with the terms of the exemption or this Subpart C; or
 - 2) On the basis of information not available at the time the exemption was granted, a termination of the exemption is necessary to adequately protect against risks to life and property; or
 - 3) The exemption is no longer consistent with the public interest; or
 - 4) The exemption is no longer necessary because of an amendment to the Illinois Motor Carrier Safety Regulations; or
 - 5) The exemption was granted on the basis of false, fraudulent, or misleading representations or information by the applicant in an application.
- c) Unless the Director, or his/her designated officer, believes that immediate termination is necessary to abate the risk of an imminent hazard, the Director, or his/her designated officer, will notify the firm in writing within 30 calendar days of the Director's, or his/her designated officer's, intent to terminate and the reasons for the termination.
- d) A letter of termination will be sent to the firm by certified mail, return receipt requested. The letter, mailed by the Division, will include:
 - 1) a statement of the reasons for termination of the exemption;
 - 2) the provisions of this Subpart C and the IMCSR that support termination; and
 - 3) a statement that the letter of termination is final unless an appeal is filed in accordance with Section 386.1350.
- e) The filing of an appeal will stay the effect of the notice of termination pending determination of the review of the appeal.
- f) If a firm does not file an appeal, it may reapply for an exemption one calendar year after the date of the letter of termination.

(Source: Added 1/9/2000 at 24 Ill. Reg. 116, effective 1/1/00)

Section 386.1350 Appeal

- a) Any applicant for an exemption or renewal of an exemption believing that it has wrongly been denied or firm holding an exemption that has been terminated may, within 30 calendar days after receiving the written letter advising it of that decision from the Division, file a written appeal with the Secretary stating areas of disagreement and

DEPARTMENT OF TRANSPORTATION

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b) Providing evidence, if possible, to rebut the Department's decision.
This appeal shall be directed to:

Secretary

Illinois Department of Transportation
 2300 South Dirksen Parkway, Room 300
 Springfield, Illinois 62764

c) The Secretary will affirm or revise, in writing, the initial determination within 30 calendar days after having received the appeal. Once the Secretary has made a final decision, that decision goes into effect immediately.
d) The firm will be notified in writing of the Secretary's decision.

(Source: Added JAN 19/1991 24 Ill. Reg. 11015, effective 1/1/1991 § (1))

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

b) Heading of the Part: Qualification of Drivers

2) Code Citation: 92 Ill. Adm. Code 391

3) Section Numbers: 391.2000

4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]

5) Effective Date of Amendment: January 19, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and Office of Chief Counsel

9) Notice of Proposal Published in Illinois Register: September 10, 1999, 23 Ill. Reg. 11015

10) Does this amendment contain incorporations by reference? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: By this Notice of Adopted Amendment, the Department has updated the date of incorporation by reference of 49 CFR 391 as of October 1, 1998. Additionally, the Department has removed provisions at Section 391.2000(c)(9), (10) and (11) for consistency with the federal regulations.

16) Information and questions regarding this adopted amendment shall be directed to: Ms. Cathy Allen, Regulations Unit
 Illinois Department of Transportation
 Division of Traffic Safety
 P.O. Box 19212
 Springfield, Illinois 6274-9212
 (217) 785-1181

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER 1: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 391

QUALIFICATION OF DRIVERS

Section 391.1000 General
 391.2000 Incorporation By Reference of 49 CFR 391

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15560, effective September 10, 1990; amended at 15 Ill. Reg. 13189, effective August 21, 1991; amended at 16 Ill. Reg. 5162, effective March 23, 1992; amended at 16 Ill. Reg. 14715, effective September 14, 1992; amended at 18 Ill. Reg. 783, effective January 11, 1994; amended at 19 Ill. Reg. 13077, effective August 30, 1995; amended at 20 Ill. Reg. 15365, effective November 18, 1996; amended at 23 Ill. Reg. 5133, effective March 31, 1999; amended at 24 Ill. Reg. 1091, effective JAN 19 2000.

Section 391.2000 Incorporation By Reference of 49 CFR 391

a) The Department hereby incorporates 49 CFR 391 by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1998+9997-as amended-6-63-PR-332547-June-18-1998, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.

c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.

- 1) Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020
- 2) 49 CFR Section 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
- 3) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle with a gross vehicle weight rating or gross combination weight of over 12,000 lbs., used in the intrastate transportation of property who immediately prior to July 29, 1996 was eligible and licensed to operate a motor vehicle subject to the Illinois Motor Carrier Safety Regulations

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NOTICE OF ADOPTED AMENDMENT

(IMCSR) and was engaged in operating such vehicles, and who was disqualified on July 29, 1986 by the adoption of 49 CFR 391 by reason of the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner. (Section 18b-105 of the Law)

4) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle which either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or which is designed to transport more than 15 passengers, including the driver; or which has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. The vehicle must be used in intrastate transportation. The driver must have been eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating such vehicle immediately prior to January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 which made the IMCSR applicable to vehicles described above. The reason for disqualification must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

5) 49 CFR Section 391.43(a)(4) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b) of this section, the medical examination shall be performed by a licensed medical examiner as defined in 92 Ill. Adm. Code 390.1020.

6) Physician assistants and advanced practice nurses can assist medical examiners in performing the medical examination. However, physician assistants and advanced practice nurses must work under the direction of a medical examiner and are prohibited from signing the medical examiner's certificate.

7) If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(3) or 391.2000(c)(4) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

8) 49 CFR Section 391.49(a) is not incorporated and the following substituted therefor:

A person who is not physically qualified to drive under 49 CFR 391, and who is otherwise qualified to drive a

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commercial motor vehicle, may drive a commercial motor vehicle in interstate or intrastate transportation if the Regional Director, Motor Carrier Safety has granted a waiver to that person.

9) Section 391-83(fa) is modified to cause 49 CFR 391.7-Subpart-H to apply to motor carriers and persons except for private motor carriers of passengers (nonbusiness) who operate a commercial motor vehicle as defined in 49 CFR 391-85-in-either-interstate or intrastate commerce.

10) The definition of commercial motor vehicle in Section 391-85-4 is modified to include such vehicles operated in either interstate or intrastate commerce, and to not include farm machinery, fertilizer, spreaders, or other special agriculture movement equipment or implements of husbandry used in intrastate commerce.

ii) Section 391-87(g) is not incorporated and the following substituted therefor:

A motor carrier shall produce upon demand and shall permit the Illinois Department of Transportation or Administrator of the US DOT to examine all records related to the administration and results of controlled substance testing performed under this Part.

(Source: Amended at 24 Ill. Reg. 1091, effective 10/91, _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Water Resources Contracts and Purchases
- 2) Code Citation: 44 Ill. Adm. Code 695
- 3) Section Numbers: 695.10
695.20
695.30
- 4) Statutory Authority: Implementing and authorized by the Illinois Purchasing Act, Repealed [formerly 30 ILCS 505]
- 5) Effective Date of Repealer: January 19, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 15, 1999, 23 Ill. Reg. 12600
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: This Part, promulgated in the early 1970's, was used to govern procurements made for the Division of Water Resources (DWR) when that Division existed within the Department of Transportation. The DWR currently exists within the Department of Natural Resources; therefore, this Part is being repealed.
- 16) Information and questions regarding this adopted repealer shall be directed to:
Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel (217)782-3215
2300 S. Dirksen Parkway, Room 300

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NOTICE OF ADOPTED REPEALER

Springfield, Illinois 62764

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

WITHDRAWAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Low-Income Housing Tax Credit Allocation2) Code Citation: 47 Ill. Adm. Code 350Proposed Action:

<u>Section Numbers:</u>	<u>Proposed Action:</u>
350.101	Withdrawal
350.102	Withdrawal
350.104	Withdrawal
350.201	Withdrawal
350.202	Withdrawal
350.203	Withdrawal
350.204	Withdrawal
350.205	Withdrawal
350.206	Withdrawal
350.207	Withdrawal
350.208	Withdrawal
350.209	Withdrawal
350.210	Withdrawal
350.211	Withdrawal
350.212	Withdrawal
350.213	Withdrawal
350.214	Withdrawal
350.215	Withdrawal

4) Date Notice of Proposed Amendments Published in the Register: July 16,
1999 23 Ill. Reg 78265) Date JCAR Statement of Objection Published in the Register
November 5, 1999 23 Ill. Reg 134356) Summary of Action Taken by the Agency: Pursuant to discussions and at
the suggestion of JCAR the Illinois Housing Development Authority is
withdrawing the proposed amendments and plans to resubmit rules in the
future that will reflect the current Qualified Allocation Plan.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

Heading of the Part: Motor Fuel Tax

Code Citation: 86 Ill. Adm. Code 500

Section Numbers: 500.100
500.203
500.235
500.265

Date Proposed Amendment Published in the Illinois Register: January 14, 2000, 24 Ill. Reg. 488

The rulemaking cited above and its companion emergency rulemaking published in the same issue require all special fuel sold or used for non-highway purposes to contain a specified dye that is added prior to removal from the terminal rack. As published, the rulemaking text contained several errors even though the text submitted by the agency was correct. The Joint Committee on Administrative Rules regrets any confusion this printing error may have caused.

The full text of the corrected sections appears on the next page. In Section 500.100, definition of "dyed diesel fuel", the word "law" is capitalized. Also, in the definition of "fuel", the stricken text is restored and the underlined text deleted so that the definition remains unchanged by this rulemaking. In Section 500.203(e), "or bulk user" is stricken from the first sentence and "or" is added before "receiver". In Section 500.235(t), in the column labeled "Maximum", the misspelled words for "anhydrous" and "refrigeration" are corrected, and the symbol for ammonia is shown as NH₃. The bracket is used to indicate a subscript number.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

SUBPART A: DEFINITIONS

Section 500.100 Definitions

For purposes of this Part, the following definitions apply:

"Base Jurisdiction" means the jurisdiction where commercial motor vehicles are based for vehicle registration purposes and:
Where the operational control and operational records of the licensee's commercial motor vehicles are maintained or can be made available; and
Where some travel is accrued by commercial motor vehicles within the fleet.

"Bulk-User" means any person, other than a licensed distributor--or licensed supplier,--who owns,--operates,--or controls special-fuel-bulk storage facilities into which any special fuel is delivered--by--the seller--without--the--motor-fuel-tax-being-paid--and--owns,--operates--or controls licensed highway-vehicles-which-are-powered-by-special-fuel. {Section-115-of-the-Act}

"Blender" means any person who engages in the practice of blending. (Section 1.6 of the Act)

"Blending" means the mixing together by any process whatsoever, of any one or more products with other products, and regardless of the original character of the products so blended, provided the resultant product so obtained is suitable or practicable for use as a motor fuel, except such blending as may occur in the process known as refining by the original refiner of crude petroleum, and except, also, the blending of products known as lubricating oil in the production of lubricating oils and greases and except, also, the dieing of special fuel as required by Section 4d of the Law. (Section 1.5 of the Act)

"Commercial Motor Vehicle" means a motor vehicle used, designed, or maintained for the transportation of persons or property and either having 2 axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,793 kilograms, or having 3 or more axles regardless of weight, or that is used in combination, when the weight of the combination exceeds 26,000 pounds or 11,793 kilograms gross vehicle weight. This term does not include motor vehicles operated by the State of Illinois or the United States,

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"Designated inspection site" means any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Department to be used as a fuel inspection site. A designated inspection site will be identified as a fuel inspection site. (Section 1.26 of the Law)

"Designated inspection site" means any State highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Department to be used as a fuel inspection site. A designated inspection site will be identified as a fuel inspection site. (Section 1.26 of the Law)

"Diesel fuel" means any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. (Section 2(b) of the Act)

"Distributor" means a person who either (i) produces, refines, blends, compounds or manufactures motor fuel in this State, or (ii) transports motor fuel into this State or receives motor fuel transported-to-him from-without-the-State, or (iii) who is engaged in this State in the distribution of motor fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active bulk storage capacity of not less than 30,000 gallons for gasoline as defined in Section 5(A) of the Law. (Section 1.2 of the Act)

"Dyed diesel fuel" means special fuel, as defined in Section 1.13 of the Law, dyed in accordance with Section 4d of the Law. (Section 1.13B of the Law)

"Export" means the transportation of reportable motor fuel or fuel, by any vessel, from Illinois, when such motor fuel or fuel comes to rest in a different state, whether or not in the original vessel used to transport the motor fuel or fuel. Motor fuel or fuel delivered to a different state, by or on behalf of the seller, constitutes an export by the seller. Motor fuel or fuel delivered to a different state, by or on behalf of the purchaser, constitutes an export by the purchaser. The exporter of such motor fuel or fuel is subject to the reporting

"Fuel" means all liquids defined as "motor fuel" "Motor-Fuel" and aviation fuels and kerosene, but excluding liquified petroleum gases.

"Import" means the transportation of reportable motor fuel or fuel, by any vessel, into Illinois, when such motor fuel or fuel comes to rest

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in Illinois, whether or not in the original vessel used to transport the motor fuel or fuel. Motor fuel or fuel delivered into Illinois from a different state, by or on behalf of the seller, constitutes an import by the seller. Motor fuel or fuel delivered into Illinois from a different state, by or on behalf of the purchaser, constitutes an import by the purchaser. The importer of such motor fuel or fuel is subject to the reporting and licensing requirements of the origin and destination states.

"International Fuel Tax Agreement" means ("IFTA") means the multijurisdictional International Fuel Tax Agreement ratified by Congress, the provisions of which were imposed upon States pursuant to Public Law 102-240, which mandates that no State shall establish, maintain or enforce any law or regulation which has fuel use tax reporting requirements not in conformity with the International Fuel Tax Agreement.

"Jurisdiction" is a state of the United States, the District of Columbia, or a province or territory of Canada.

"Kerosene-type jet fuel" means any jet fuel as described in ASTM specification D 1655 and military specifications MIL-T-5624R and MIL-T-83133D (Grades JP-5 and JP-8). (Section 1.25 of the Law)

"Leasing" means the giving of possession and control of a vehicle for the purpose of hire under a lease.

"Loss" means, for purposes related to claims for refund, the reduction of motor fuel resulting from spillage, spoilage, theft, leakage, destruction by fire or any other provable cause, but does not include a reduction less than resulting from evaporation or shrinkage due to any temperature variations changes.

"Motor fuel" means all volatile and inflammable liquids produced for the purpose of or which are suitable or intended for use as fuel in motor vehicles.

"Person" means any natural individual, firm, trust, estate partnership, association, joint stock company, joint venture, corporation, limited liability company, or as receiver, trustee, guardian, or other representative appointed by order of any court, or things, "motor fuel" includes "special fuel." (Section 1.1 of the Act practicable for, the propulsion of motor vehicles. Among other things, "motor fuel" includes "special fuel." (Section 1.1 of the Act

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NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

any city, town, county or other political subdivision in this State. When used in these rules to prescribe or impose a fine or imprisonment or both, the term as applied to partnerships and associations shall mean the partners or members thereof; as applied to limited liability companies, the term means managers, members, agents or employees of the limited liability company; and as applied to corporations, the term shall mean the officers, agents, or employees thereof who are responsible for any violation of the Act. (Section 1.11 of the Act)

"Premises" means any location where original records are kept, where tank cars, ships, barges, tank trucks, tank wagons, or other types of transportation equipment are used to distribute fuel or motor fuel; or where containers, storage tanks, or other facilities are used to store or distribute fuel or motor fuel. (Section 1.24 of the Law)

"Receiver" means a person who either produces, refines, blends, compounds or manufactures fuel in this State, or transports fuel into this State or receives fuel transported to him from without the State or exports fuel out of this State, or who is engaged in the distribution of fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active fuel bulk storage capacity of not less than 30,000 gallons. (Section 1.20 of the Act)

"Records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation.

"Recreational vehicle" means vehicles, such as motor homes, pickup trucks with attached campers, camping or travel trailers, van or truck campers, mini motor homes, or buses, used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

"Revocation" means the withdrawal of license and privileges.

"Special fuel" means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5(A) of the Law, or combustible gases as defined in Section 5(B) of the Law. "Special fuel" includes "diesel fuel." All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of the Law. (Section 1.13 of the Act)

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"Supplier" means any person other than a licensed distributor who (i) transports special fuel into this State or (ii) engages in the distribution of special fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he has active bulk storage capacity of not less than 30,000 gallons for special fuel as defined in Section 1.13 of the Law, receives special fuel transported to him from outside the State, and a person engaged in Illinois in the distribution of special fuel primarily by tank car or tank truck, or both. (Section 1.14 of the Act)

"Terminal rack" means a mechanism for dispensing motor fuel or fuel from refinery, terminal, or bulk plant into a transport truck, railroad tank car, or other means of transportation. (Section 1.23 of the Law)

"Total distance" for purposes of the motor fuel use tax means all miles traveled during the reporting period by every commercial motor vehicle in the licensee's fleet, regardless of whether the miles are considered taxable or nontaxable by a jurisdiction. "Weight" for purposes of the motor fuel use tax means the maximum weight of the loaded vehicle or combination of vehicles during the registration period.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 500.203 Monthly Returns

- a) Distributor, supplier and receiver monthly returns. Monthly Motor Fuel Tax returns of licensed distributors and suppliers must be compiled correctly on forms furnished by the Department and must be filed, accompanied by a remittance for the correct amount of tax due, by the 20th day of the month following the month for which the return is made. Receipt schedules showing monthly receipts of motor fuel must always accompany the monthly return, as well as all other applicable schedules. Receivers subject to the tax imposed by Section 2a of the Law must file returns by the 20th of each calendar month for fuel purchased, acquired or received and sold, distributed or used during the preceding calendar month.
- b) If a distributor's only activities with respect to motor fuel are either:
 - 1) production of alcohol in quantities of less than 10,000 proof gallons per year or

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2) blending alcohol in quantities of less than 10,000 proof gallons per year which such distributor has produced; He shall file returns on an annual basis with the return for a given year being due by January 20 of the following year. Where the distributor has not established one calendar year's record of production, annual production will be projected on the basis of actual production and estimates submitted by the distributor. (Section 5 of the Law)

c) Buik-User Annual Return--Persons holding a valid license to act as a buik-user of special fuel shall make an annual return to the Department on forms prescribed by the Department--The return shall itemize the number of invoices of special fuel purchased acquired--or--received during the preceding calendar year--The return shall be due on the 15th day of the fourth month following the end of the calendar year.

c) Magnetic Schedule Support Data. Beginning October 1, 1994, data required by all support schedules for licensed distributors, suppliers, and receivers who are required to file a return must be filed using magnetic media. Schedule support data must be submitted on either 3 1/2" diskette, 5 1/4" floppy disk, or 9" magnetic tape which is IBM or IBM compatible. Schedules that must be filed on magnetic media include Schedules A, SA, LA, E, SE, LE, GA-1, GA-2, SB, LB, C, SC, LC, D, SD, DA, DB, DC, DD-1, SB-1 and LD. Schedules not required to be filed in this manner are Schedules F, M and J. Amended schedules must still be filed on Department forms or approved computer-generated forms. The only exceptions to this requirement are persons who do not possess a computer, who have computers which are not IBM or IBM compatible, or who have ten business transactions or less per month, per schedule type. Persons seeking an exemption from these requirements must petition the Department's Motor Fuel Division in writing, explaining the basis for their exemption. All exceptions expire one year from the date they are granted.

c) When returns are timely filed and paid in full, a supplier, distributor or receiver may take a discount of 2% of the tax collected to reimburse himself for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request. This discount is not permitted for motor fuels which are used or consumed by a supplier or distributor in his own vehicles or for any other purpose. The 2% discount, however, shall be applicable only to the amount of payment which accompanies a return filed timely in accordance with Sections 2b, 5, or 5a of the Law.

e) A person whose license to act as a supplier, distributor, or receiver or buik-user of motor fuel has been revoked or cancelled shall make a

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return and payment to the Department covering the period from the date of the last return to the date of the revocation of the license, which return shall be delivered to the Department not later than 10 days from the date of the revocation or termination of the license. Any tax-free inventory remaining at the close of the reporting period must be paid in full.

(Source: Amended at 24 Ill. Reg. _____)

Section 500.235 Claims for Refund - Invoices

a) Claims for the refund of Motor Fuel Tax imposed by Section 2 of the Law, by persons other than a distributor or supplier, shall be made to the Department of Revenue, duly verified by the claimant, upon forms prescribed by the Department. The Department of Revenue will not approve claims for refund of Motor Fuel Tax unless such claims can be directly supported by invoices, sales slips, statements of account, or monthly statements (herein referred to as "purchase documentation"). Reproductions may be submitted in lieu of originals, provided they are legible. However, the Department may require original purchase documentation to verify purchases. Purchase documentation may be electronically generated by the claimant's fuel supplier. Electronically generated purchase documentation shall meet all applicable electronic storage requirements of Sections 130.805 and 130.825 of the Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130). Manifests will not be treated as purchase documentation.

b) All purchase documentation must contain the following information:

- 1) Date of delivery;
- 2) Name and address of purchaser (which must be the name of the claimant);
- 3) Name and address of seller;
- 4) Number of gallons purchased and price per gallon;
- 5) Illinois Motor Fuel Tax as separate item if the purchase documentation is from other than a retail outlet; and
- 6) Receipt of payment. (Only paid purchase documentation is acceptable in connection with claims for refund.) Refunds will only be issued when payment of tax is exactly correlated to the purchase documentation for which the claim is being filed.

c) Claimants must retain purchase documentation in conjunction with claims based upon motor fuel used for a nontaxable purpose. In making a claim, claimants must show total purchases, deducting the gallongage used upon public highways or waters, the difference being the net amount upon which the claim is based. Claimants must retain among

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their books and records documentation of all purchases, payments, bulk storage withdrawals and proof of usage for a period equivalent to that during which an assessment can be issued under the Law, from the date of issuance of the claim or refund. This information must be made available to Department employees upon request. Failure to keep or provide such records will result in denial of claims and recovery of any claims paid. In addition, the Department may recover any claims erroneously paid.

d) Where the claimant has lost purchase documentation through inadvertence or an act of God, the Department will permit the claimant to submit an affidavit in lieu of such purchase documentation in support of the claim, if the affidavit contains the same information which the purchase documentation was required to contain, plus a statement of facts explaining the loss of the purchase documentation and justifying the substitution of an affidavit for the purchase documentation.

e) Claims for full reimbursement of tax paid on motor fuel must be filed not later than one year after the date on which the tax was paid by the claimant. If, however, a claim for such reimbursement otherwise meeting the requirements of the Act is filed more than one year but less than 2 years after that date, the claimant shall be reimbursed at the rate of 80% of the amount to which he would have been entitled if his claim had been timely filed.

f) Claims accompanied by purchase documentation which demonstrate evidence of change of name, date or gallonage or other evidence of fraud, or which is illegible, will be disallowed in their entirety. Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repay the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a copy of the tax return filed with such other state and a copy of the cancelled check or a receipt acknowledging payment of the tax due on said tax return.

g) Claims for refunds for the motor fuel tax imposed by Section 2 of the Law approved by the Department shall be paid within 90 days after receipt of a complete and correct application for such a refund. If refunds are paid after the expiration of the 90 day period, the Department shall also pay from the Motor Fuel Tax Fund to the taxpayer interest at the rate and in the manner set by the Uniform Penalty and Interest Act [35 ILCS 505/15.1].

i) No claim based upon the use of undyed diesel fuel shall be allowed

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except for undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highways. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways. (Section 13 of the Law) Such claims must be based upon actual consumption of undyed diesel fuel. The following are identified uses subject to refund and are the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in such a dual capacity.

Use Maximum

Application of dry fertilizer, liquid fertilizer, pesticides, or herbicides by a commercial vehicle that is either licensed for highway use or is not required to be licensed under Section 3-809(c) of the Illinois Vehicle Code and is designed or adapted and used for the bulk spreading of agricultural chemicals

Phosphate 1 gallon per ton applied
Dry fertilizer 2 gallons per ton
Liquid mixed fertilizer 1 gallon per ton applied
Liquid nitrate fertilizer 1 gallon per ton applied
Anhydrous ammonia 2 gallons per acre of application
NH₃ liquid/dry fertilizer 1 gallon per acre of application
Pesticides/herbicides 13 gallon per acre of application

Limestone .20 gallon per ton applied
Liquid phosphate 1 gallon per ton applied
Dry fertilizer 2 gallons per ton
Liquid mixed fertilizer 1 gallon per ton applied
Liquid nitrate fertilizer 1 gallon per ton applied
Anhydrous ammonia 2 gallons per acre of application
NH₃ liquid/dry fertilizer 1 gallon per acre of application
Pesticides/herbicides 13 gallon per acre of application

Commercial vehicles utilizing power take-off equipment (including concrete mixing vehicles and solid waste compacting vehicles)

Delivery of fuel by a commercial vehicle that is licensed for highway use and is designed or adapted and used for the bulk delivery of fuel

Commercial vehicle with permanently mounted refrigeration units that refrigerate cargo and have a dedicated fuel supply system separate from the

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commercial vehicle's fuel supply tank

Custom work maintenance by commercial vehicles

Moboard plowing 8 gallons per acre
 Chisel plowing 6 gallons per acre
 Discing 3 gallons per acre Chopping stalks 3 gallons per acre
 Reseeding 3 gallons per acre
 Bluegrass sowing 3 gallons per acre
 Combining 5 gallons per acre
 Bushhogging 5 gallons per acre
 Planting 2 gallons per acre
 Replanting 2 gallons per acre Mowing 1 gallon per acre

Cultivation maintenance by commercial vehicles

Soybeans 10 gallons per acre cultivated
 Small grain 3 gallons per acre cultivated
 Hay 10 gallons per acre cultivated
 Corn silage 20 gallons per acre cultivated

Livestock maintenance by commercial vehicles

Swine .3 gallon per animal raised to market
 Sheep .45 gallon per animal raised to market
 Beef cattle 1.3 gallons per animal raised to market
 Dairy cattle 1 gallon per animal raised to market
 Poultry .054 gallon per bird raised to market

A claimant who has a commercial vehicle that is operated for both highway purposes and any purposes other than operating such vehicles upon the public highways that is not included in the above table shall submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. The above amounts are the maximum amounts allowed unless the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of these amounts. Such approved studies shall be valid for 2 years from the date of approval.

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1) No other usage or claims based upon the use of undyed diesel fuel shall be allowed except for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property. Such claims are subject to a maximum of 100% of the fuel consumed by such commercial vehicles.

k) The Department will approve claims for refund of undyed diesel fuel only when such claims are based upon a showing that such undyed diesel fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When such claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims which can be supported by proof of the amount of undyed diesel fuel not used for a taxable purpose will be approved.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 500.265 Distributors' and Suppliers' Claims for Credit or Refund

a) Filing of Claims. Any distributor or supplier who shall have paid Motor Fuel Tax upon motor fuel used by such distributor or supplier for any purpose other than operating a motor vehicle upon the public highways or waters, may file a claim for credit or refund to recover the amount so paid. Such claims shall be filed on forms prescribed by the Department. Such claims shall be made to the Department, duly verified by the claimant (or by the claimant's legal representative if the claimant shall have died or become a person under legal disability). The claim shall state such facts relating to the purchase, importation, manufacture or production of the motor fuel by the claimant as the Department may deem necessary and shall state when the nontaxable use occurred and shall specify the purpose for which such motor fuel was used by the claimant, together with such other information as the Department may reasonably require. Claims for credit or refund for tax paid on motor fuel purchased on or after July 1, 1965, must be filed not later than one year after the date on which tax was paid by the claimant. In case the distributor or supplier requests and the Department determines that the claimant is entitled to a refund, such refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department shall provide for the payment of refunds in hardship cases as provided in 86 Ill. Adm. Code 130.1510.

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No claim based upon the use of undyed diesel fuel shall be allowed except for undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-11.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highways. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways. (Section 13 of the Law) Such claims must be based upon actual consumption of undyed diesel fuel. The following are identified uses subject to refund and are the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in such a dual capacity.

Use

Application of dry fertilizer, liquid fertilizer, pesticides, or herbicides by a commercial vehicle that is either licensed for highway use or is not required to be licensed under Section 3-809(c) of the Illinois Vehicle Code and is used or adapted and used for the bulk spreading of agricultural chemicals

Limestone .20 gallon per ton applied
Phosphate 1 gallon per ton applied
Dry fertilizer 2 gallons per ton applied
Liquid mixed fertilizer 1 gallon per ton applied
Liquid nitrate fertilizer 1 gallon per ton applied
Anhydrous ammonia 2 gallons per acre of application
 NH_3 liquid/dry fertilizer 1 gallon per acre of application
Pesticides/herbicides .13 gallon per acre of application

25% of the fuel consumed

3/4 gallon per 1,000 gallons pumped

Commercial vehicles utilizing power take-off equipment (including concrete mixing vehicles and solid waste compacting vehicles)

Delivery of fuel by a commercial vehicle that is licensed for highway use and is designed or adapted and used for the bulk delivery of fuel

Commercial vehicle with permanently mounted refrigeration units that refrigerate cargo and have a dedicated

fuel supply system separate from the commercial vehicle's fuel supply tank

Custom work maintenance by commercial vehicles

Moboard plowing 8 gallons per acre
Chisel plowing 6 gallons per acre
Discing 3 gallons per acre
Chopping stalks 3 gallons per acre
Pasture reseeding 3 gallons per acre
Bluegrass sowing 3 gallons per acre
Combining 5 gallons per acre
Bushhogging 5 gallons per acre
Planting 2 gallons per acre
Replanting 2 gallons per acre
Mowing 1 gallon per acre

Cultivation maintenance by commercial vehicles

Corn 12 gallons per acre
cultivated
Soybeans 10 gallons per acre
cultivated
Small grain 3 gallons per acre
cultivated
Hay 10 gallons per acre
cultivated
Corn silage 20 gallons per acre cultivated

Livestock maintenance by commercial vehicles

Swine .3 gallon per animal
raised to market
Sheep .45 gallon per animal
raised to market
Beef cattle 1.3 gallons per animal raised to market
Dairy cattle 1 gallon per animal raised to market
Poultry .054 gallon per bird
raised to market

A claimant who has a commercial vehicle that is operated for both highway purposes and any purpose other than operating such vehicles

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upon the public highways that is not included in the above table shall submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. The above amounts are the maximum amounts allowed unless the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of these amounts. Such approved studies shall be valid for 2 years from the date of approval. No other usage or claims based upon the use of undyed diesel fuel shall be allowed except for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property. Such claims are subject to a maximum of 100% of the fuel consumed by such commercial vehicles. The Department will approve claims for refund of undyed diesel fuel only when such claims are based upon a showing that such undyed diesel fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When such claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims which can be supported by proof of the amount of undyed diesel fuel not used for a taxable purpose will be approved.

b) Issuance of Credit Memoranda - Use Thereof to Satisfy Prior Rights of Department. The Department may make such investigation of the correctness of the facts stated in such claims for credit or refund as it deems necessary. When the Department approves a claim for credit or refund the Department shall issue a refund or credit memorandum to the distributor or supplier who made the payment for which the refund or credit is being given or, in the event that such distributors or suppliers shall have died or become incompetent, to such distributor's or supplier's legal representative, as such. The amount of such refund or credit memorandum shall first be credited against any tax due or to become due under the Act from the distributor or supplier who made the payment for which credit has been given. This means that if there is an established or admitted unpaid Motor Fuel Tax liability on the part of the claimant, the amount of the credit or refund will be credited against the tax that is due. If the credit or refund is in an amount less than that of the unpaid liability, the credit or refund shall be applied against such liability. If the amount of the credit or refund exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, the Department will issue a new credit memorandum or refund representing the difference between that of the original credit or refund found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum or refund will be delivered

to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Act. If a proceeding to establish such an unpaid liability is pending, the credit memorandum or refund will be held by the Department until such proceeding is concluded; and if such proceeding results in a determination that Motor Fuel Tax is due from the claimant, the credit memorandum or refund will be applied by the Department, to the extent which may be necessary, in liquidation of such liability, and the balance of the credit memorandum or refund, if any (after cancellation of the credit memorandum or refund applied in liquidation of said liability), will be issued in the form of a new credit memorandum or refund and delivered to the person entitled to receive delivery thereof.

Disposition of Credit Memoranda by Holder Thereof

- 1) Assignment of Credit Memoranda. Credit memoranda may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:
 - A) That the assignment is made to a person who is licensed as a distributor of motor fuel or a supplier of special fuel under the Law;
 - B) That there is no proceeding pending to establish an unpaid Motor Fuel Tax liability against the assignor; and
 - C) that there is no established or admitted unpaid Motor Fuel Tax liability against the assignor; provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an unpaid liability of the claimant-assignor, notice to this effect will be given the claimant-assignor by the Department. If any balance is due such claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, such balance may be assigned upon receipt by the Department of instructions to that effect. If there is no unpaid liability and no proceedings pending to determine a liability as aforesaid, and if the assignee is a licensed distributor of motor fuel, the request for leave to assign will be approved. The original credit memorandum will be cancelled, and a new credit memorandum will be issued to the assignee in the amount shown on the cancelled memorandum. However, before a credit memorandum is issued to the assignee, the amount of such credit will be applied, to the extent that may be necessary, in liquidation of any unpaid Motor Fuel Tax liability of the assignee, and a credit memorandum for the balance, if any, will be issued to the

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assignee, provided that there is no proceeding pending against the assignee to establish an unpaid Motor Fuel Tax liability against him. If a proceeding to establish such an unpaid liability is pending, the credit memorandum will be held by the Department until such proceeding is concluded; and if such proceeding results in a determination that Motor Fuel Tax is due from the assignee, the credit will be applied by the Department, to the extent which may be necessary in liquidation of such liability, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of said liability), will be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

2) Submission of Credit Memoranda With Monthly Returns. Credit memoranda, in the hands either of the original claimant or of his assignee, may be submitted to the Department, along with monthly tax returns, in payment of Motor Fuel Tax due from the holder of such credit memoranda. If, after applying any such credit memorandum against the amount of tax shown to be due by the tax return with which the credit memorandum is submitted, the Department finds that there is a balance of the credit memorandum in favor of the distributor or supplier submitting the credit memorandum, the Department will cancel the credit memorandum that has been submitted and will issue and deliver to such distributor or supplier a new credit memorandum for such balance. This process will be followed until the credit, to which such distributor or supplier is entitled, is exhausted. However, any new credit memorandum, which is issued as provided in this paragraph for a balance of credit due to the payment after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see subsection (b) of this Section) or when leave to assign a credit memorandum is requested (see subsection (c)(1) of this Section).

d) Refunds to Distributors and Suppliers. If any distributor or supplier ceases to be licensed as a distributor or supplier while still holding an unused credit memorandum, such distributor or supplier may, at his election (instead of assigning the credit memorandum to another licensed distributor or supplier under the Act), surrender such unused credit memorandum to the Department and receive a refund in lieu thereof.

e) Claims filed under this Section for overpayment of the Motor Fuel Tax

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imposed by Section 2 of the Law shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act. [35 ILCS 505/13] Claims made under this Section that are based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters shall be paid within 90 days after receipt of a complete and correct application for credit. If credits based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters are issued after expiration of the 90 day period, the Department shall include interest at the rate and in the manner set by the Uniform Penalty and Interest Act. [35 ILCS 505]

(Source: Amended at 24 Ill. Reg. _____, effective _____)

OFFICE OF BANKS AND REAL ESTATE
NOTICE OF PUBLIC INFORMATION

NOTICE REGARDING ARAMIS MORTGAGE COMPANY

The Commissioner of the Office of Banks and Real Estate of the State of Illinois is hereby giving Notice that the Order of Revocation entered against Amaris Mortgage Company, Chicago, Illinois, on December 10, 1999, with an effective date of December 15, 1999, has been stayed by Order of the Circuit Court of Cook County.

OFFICE OF THE ATTORNEY GENERAL
JANUARY 2000 REGULATORY AGENDA

a) Part (Heading and Code Citation): Motor Vehicle Advertising, 14 Ill., Adm. Code Section 475

1) Rulemaking: Proposed amendments

A) Description: The proposed amendments to the Motor Vehicle Advertising Regulations are the result of the first comprehensive review of the regulations describing unfair or deceptive acts in the advertising of automobiles for sale since the rules were promulgated in 1991. Amendments have been developed over the past twenty-four months by law enforcement, industry, and trade group representatives at meetings of the Auto Dealers Advisory Council and are designed to account for changes in the marketing and advertising of motor vehicles since 1991. The proposals include various clarifications and would, among other things: reflect amendments to the Federal Consumer Leasing Act (15 U.S.C.A. sec. 1601, et seq.), and implementing regulations (12 C.F.R. 213); prohibit the use of guaranteed trade-in allowances; and permit automobile manufacturers to offer free prizes, gifts or other incentives. Amendments to the following sections are under consideration:

Section 475.310 Advertised Price
Section 475.360 Disclosure of Basis for Price Comparison
Section 475.370 Sales
Section 475.410 Dealer Cost/Invoice Pricing
Section 475.510 Executive or Official Vehicles
Section 475.520 Demonstrator and Rental Vehicles
Section 475.530 Rebates
Section 475.540 Trade-Ins
Section 475.590 Gifts and Free Offers
Section 475.610 Credit Sales Advertising Disclosures
Section 475.710 Lease Advertising Disclosures
Section 475.720 Other Limitations, Restrictions or Conditions

B) Statutory Authority: Implementing Sections 2 and 3 and authorized by Section 4 of the Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/2, 3 and⁴)

C) Scheduled meeting/hearing date: None

D) Date agency anticipates First Notice: April 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Small businesses such as automobile

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dealerships, advertising agencies and others responsible for automobile advertisements will need to familiarize themselves with the changes, but there are no new form, record keeping or other administrative requirements. The rules should not affect municipalities or not for profit corporations.

F) Agency contact person for information:

Patricia Kelly, Chief
Consumer Protection Division
Office of the Attorney General
100 W. Randolph St., Room 12-157
Chicago, Illinois 60601
(312) 814-3749

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Solicitation for Charity Act, 14 Ill. Admin. Code 400

1) Rulemaking: Proposed amendments

A) Description: The primary purpose of these amendments is to conform the rules to amendments in the Solicitation for Charity Act. Among the statutory changes were provisions for registration and annual report filing fees for charitable organizations and professional fundraisers; registration of fundraising consultants separate from professional fundraisers; simplified annual financial reporting requirements for small charities; and an increase from \$25,000 to \$150,000 in the level of received contributions that will require submission of financial statements audited by a CPA. Other matters that may be addressed in the contemplated rulemaking are the conditions under which receipt of a report after the statutory deadline will not result in penalties and changes necessary to implement statutory changes passed by the General Assembly and awaiting the Governor's signature. In addition, several clarifications will be made and unnecessary provisions deleted.

B) Statutory Authority: Solicitation for Charity Act, 225 ILCS 460/2(h)

C) Scheduled meeting/hearing date: None

D) Date agency anticipates First Notice: Notice of proposed rulemaking will be submitted in February 2000.

E) Effect on small businesses, small municipalities or not for profit corporations: These rule changes will have a nominal effect upon some small businesses and not-for-profit corporations and will not affect small municipalities.

F) Agency contact person for information:

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effect upon some small businesses (such as professional fund raisers and fundraising consultants) and not-for-profit corporations and will not affect small municipalities.

F) Agency contact person for information:

Floyd D. Perkins, Chief
Charitable Trust Bureau
Office of the Attorney General
100 West Randolph Street, 3rd Floor
Chicago, Illinois 60601
(312) 814-2595

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Charitable Trust Act, 14 Ill. Admin. Code 480

1) Rulemaking: Proposed Amendments

A) Description: The primary purpose of these amendments is to conform the rules to amendments in the Charitable Trust Act. Among the statutory changes were provisions for: registration and annual report filing fees for trustees; elimination of registration exemptions for homes for the aged and cemeteries; elimination of the annual financial report exemption for bank and trust companies; and simplified annual financial reporting requirements for small trusts. Other matters that may be addressed in the contemplated rulemaking are the conditions under which receipt of a report after the statutory deadline will not result in penalties and changes necessary to implement statutory changes passed by the General Assembly and awaiting the Governor's signature. In addition, several clarifications will be made and unnecessary provisions deleted.

B) Statutory Authority: Charitable Trust Act, 760 ILCS 55/8
C) Scheduled meeting/hearing date: None
D) Date agency anticipates First Notice: Notice of proposed rulemaking will be submitted in February 2000.

E) Effect on small businesses, small municipalities or not for profit corporations: These rule changes will have a nominal effect upon some small businesses and not-for-profit corporations and will not affect small municipalities.

F) Agency contact person for information:

OFFICE OF THE ATTORNEY GENERAL

JANUARY 2000 REGULATORY AGENDA

Name: Floyd D. Perkins, Chief
Charitable Trust Bureau
Office of the Attorney General
100 West Randolph Street, 3rd Floor
Chicago, Illinois 60601
(312) 814-2595

G) Related rulemakings and other pertinent information: None

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Illinois State Library, Information Services Division, 23 Ill. Adm. Code 3010

1) Rulemaking:

A) Description: Revision of the rules to reflect needed updates regarding photocopying, circulation of materials, reserves of materials, reference service, and interlibrary loan.

B) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320]. The changes are derived from P. A. 91-0507, which was signed into law on August 13, 1999.

C) Scheduled meeting/hearing dates: A hearing will not be scheduled since the changes are not major in scope. Public comment will be requested through letters, faxes, and electronic mail.

D) Date the agency anticipates First Notice: April 2000

E) Impact on small businesses, small municipalities or not for profit corporations: No direct impact

F) Agency contact person for information:

Mike Ragen
Chief Deputy Director
Illinois State Library
300 South Second
Springfield, IL 62701
217-782-2995
Fax 217-785-4326
Mragen@sos.state.il.us

G) Related rulemaking and other pertinent information: None

b) Part(s) (Heading and Code Citation): Revised Uniform Limited Partnership Act, 14 Ill. Adm. Code 170

1) Rulemaking:

A) Description: Section 170.10. This rule provides definition in addition to those contained in Section 101 of RULPA.

B) Statutory Authority: 805 ILCS 210 (Revised Uniform Limited Partnership Act)

C) Scheduled meeting/hearing dates: No meetings or hearings are

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JANUARY 2000 REGULATORY AGENDA

known to be scheduled.

D) Date the agency anticipates First Notice: The date of the notice is unknown.

E) Impact on small businesses, small municipalities or not for profit corporations: No effect

F) Agency contact person for information:

Patricia Ryan
Administrator
Liability Limitation Division
Department of Business Services
Room 359, Howlett Building
Springfield, IL 63756
217-785-8960
Fax 217-524-3390
Pryan@ccgate.sos.state.il.us

G) Related rulemaking and other pertinent information: "RULPA Section" shall mean that unit of the Department which administers the provisions of RULPA.

c) Part(s) (Heading and Code Citation): Revised Uniform Limited Partnership Act, 14 Ill. Adm. Code 170

1) Rulemaking

A) Description: Section 170.11. This rule sets for the filing location.

B) Statutory Authority: 805 ILCS 210 (Revised Uniform Limited Partnership Act)

C) Scheduled meeting/hearing dates: No meetings or hearings are known to be scheduled.

D) Date the agency anticipates First Notice: The date of the notice is unknown.

E) Impact on small businesses, small municipalities or not for profit corporations: No effect

F) Agency contact person for information:

Patricia Ryan
Administrator
Liability Limitation Division
Department of Business Services
Room 357, Howlett Building
Springfield, IL 62756

SECRETARY OF STATE
JANUARY 2000 REGULATORY AGENDA

Administrator
Liability Limitation Division
Department of Business Services
Room 357, Howlett Building
Springfield, IL 62756
217-785-8960
Fax 217-524-3390
Pryan@ccgate.sos.state.il.us

G) Related rulemaking and other pertinent information:

Secretary of State's Office
Department of Business Services
Liability Limitation Division
Limited Partnership Section
Room 357, Howlett Building
Springfield, IL 62756

d) Part(s) (Heading and Code Citation): Limited Liability Companies Act, 14 Ill. Adm. Code 178

1) Rulemaking:

A) Description: Section 178.10. This rule provides definition in addition to those contained in Section 1-5 of The Limited Liability Company Act.

B) Statutory Authority: 805 ILCS 180 (Limited Liabilities Companies Act)

C) Scheduled meeting/hearing dates: No meetings or hearings are known to be scheduled.

D) Date the agency anticipates First Notice: The date of the notice is unknown.

E) Impact on small businesses, small municipalities or not for profit corporations: No effect

F) Agency contact person for information:

Patricia Ryan
Administrator
Liability Limitation Division
Department of Business Services
Room 357, Howlett Building
Springfield, IL 62756

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

217-785-8960
Fax 217-524-3390
PRyan@ccgat.state.il.us

G) Related rulemaking and other pertinent information: "ILC Section" means that unit of the Department which administers the provisions of ILLCA.

e) Part(s) (Heading and Code Citation): Procedures and Standards, 92 Ill. Adm. Code 1001

1) Rulemaking:

A) Description: The amendment would revise and modify various sections to accommodate changes in our current method of conducting hearings since the rules were last revised in June of 1993. The amendment would also seek to make our rules internally consistent. Revision and amendment on Subparts A through D and F has been recently completed and will soon be submitted for codification. The revision of Subpart E will make it consistent with the revisions made to Subparts A through D and F. We anticipate that there will not be any significant substantive revisions to the structure of the medical hearing process but, rather, that the revisions will be grammatical and stylistic in nature.

B) Statutory Authority: 625 ILCS 5/2-104

C) Scheduled meeting/hearing dates: The public will have an opportunity to comment on these rules during the first notice period.

D) Date the agency anticipates First Notice: It is not known when this rulemaking will be proposed, but it is anticipated that the revisions will be completed by the end of the summer of 2000.

E) Impact on small businesses, small municipalities or not for profit corporations: At this time, the Department does not feel that this rulemaking will affect small businesses, not for profit corporations or small municipalities.

F) Agency contact person for information:

Marc Christopher Loro
Legal Advisor
Room 200
Howlett Building

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

Springfield, IL 62756
217-785-8245
Fax 217-782-2192

G) Related rulemaking and other pertinent information: At this time, the Department is not aware of any further information which may serve the public interest.

f) Part(s) (Heading and Code Citation): Dealers, Wreckers, Transporters and Rebuilders, 92 Ill. Adm. Code 1020

1) Rulemaking:

A) Description: Amend existing rules or create new rules to accommodate technical or procedural changes in anticipation of or because of new legislation.

B) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5/2-104(b)]

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: Unknown

E) Impact on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Cynthia J. Wood
Assistant General Counsel
Secretary of State's Office
100 West Randolph Street
Suite 5-400
Chicago, IL 60601-3273
312-814-2360
Fax 312-814-5958

G) Related rulemaking and other pertinent information: None

g) Part(s) (Heading and Code Citation): Certificates of Title, Registration of Vehicles, 92 Ill. Adm. Code 1010

1) Rulemaking

A) Description: Amend existing rules or create new rules to

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

accommodate technical or procedural changes in anticipation of or because of new legislation.

B) Statutory Authority: Implementing and authorized by the Illinois Vehicle Code [625 ILCS 5/2-104(b)]

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: Unknown

E) Impact on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Cynthia J. Wood
Assistant General Counsel
Secretary of State's Office
100 West Randolph Street
Suite 5-400
Chicago, IL 60601-3273
312-814-2360
Fax 312-814-5958

G) Related rulemaking and other pertinent information: None

h) Part(s) (Heading and Code Citation): Issuance of Licenses, 92 Ill. Adm. Code 1030

1) Rulemaking

A) Description: Will be amending the above referenced Part to implement any legislative changes enacted by the General Assembly and passed into law.

B) Statutory Authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation affecting Chapter 6 of the Illinois Vehicle Code.

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: February 2000

E) Impact on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

Robert W. Mueller
Assistant General Counsel
Secretary of State's Office
2701 S. Dirksen Parkway
Springfield, IL 62723
217-782-5356 / 217-785-3094
Fax 217-785-1385 / 217-524-1689

G) Related rulemaking and other pertinent information: None

i) Part(s) (Heading and Code Citation): General Rules, Definitions, 92 Ill. Adm. Code 1000

1) Rulemaking

A) Description: Will be amending the above referenced Part by Emergency to correct staffing levels in the Department of Secretary of State Police regarding the Investigator position. At the present low level their primary mission to inspect school bus companies cannot be accomplished, which in turn places the well being of school children in jeopardy.

B) Statutory Authority: Implementing the Secretary of State's authority to hire investigators under Public Acts 76-1586, 76-1797, 78-298, 81-567, 82-977, 85-1204, 87-993, 88-517.

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: January 2000

E) Impact on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Robert W. Mueller
Assistant General Counsel
Secretary of State's Office
2701 S. Dirksen Parkway
Springfield, IL 62723
217-782-5356 / 217-785-3094
Fax 217-785-1385 / 217-524-1689

G) Related rulemaking and other pertinent information: None

j) Part(s) (Heading and Code Citation): Illinois Business Brokers Act of

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

1995, 14 Ill. Adm. Code 140

1) Rulemaking:

A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.

B) Statutory Authority: Illinois Business Broker Act, 815 ILCS 307/10-1

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: Unknown

E) Impact on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

Tanya Solov
Illinois Securities Department
7 North State Street, Suite 1100
Chicago, IL 60602
312-793-2525
Fax 312-793-1202

G) Related rulemaking and other pertinent information: None

Part(s) (Heading and Code Citation): Illinois Securities Law of 1953, 14 Ill. Adm. Code 130

1) Rulemaking:

A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.

B) Statutory Authority: Illinois Securities Law of 1953, 815 ILCS 5/1

C) Schedule meeting/hearing dates: None

D) Date the agency anticipates First Notice: Unknown

E) Impact on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

Tanya Solov

Director

Illinois Securities Department
17 North State Street, Suite 1100
Chicago, IL 60602
312-793-2525
Fax 312-793-1202

G) Related rulemaking and other pertinent information: None

1) Part(s) (Heading and Code Citation): Illinois Business Opportunity Sales Law of 1995, 14 Ill. Adm. Code 135

1) Rulemaking:

A) Description: Amend rules and draft rules generally to conform regulations to legislative enactments.

B) Statutory Authority: Illinois Business Opportunity Sales Law of 1995, 815 ILCS 602/5-1

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: Unknown

E) Impact on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

Tanya Solov

Director

Illinois Securities Department
17 North State Street, Suite 1100
Chicago, IL 60602
312-793-2525
Fax 312-793-1202

G) Related rulemaking and other pertinent information: None

1) Part(s) (Heading and Code Citation): Illinois Loan Brokers, 14 Ill. Adm. Code 145

1) Rulemaking:

A) Description: Amend rules and draft rules generally to conform

SECRETARY OF STATE

JANUARY 2000 REGULATORY AGENDA

regulations to legislative changes.

B) Statutory Authority: Illinois Loan Brokers Act of 1995, 815 ILCS 175/15-1

C) Scheduled meeting/hearing dates: None

D) Date the agency anticipates First Notice: Unknown

E) Impact on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

Tanya Sолов
Director
Illinois Securities Department
17 North State Street, Suite 1100
Chicago, IL 60602
312-793-0525
Fax 312-793-1202

G) Related rulemaking and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2000 REGULATORY AGENDA

a) Part (Heading and Code Citation): Universities Retirement, 80 Ill. Adm. Code 1600

1) Rulemaking: Proposed Rule Change

A) Description: The System plans to amend the rule that provides for medical evaluation of disability claims. The statutory provision under which this rule was made was revised by P.A. 90-766. The proposed rule change will implement the statutory change.

B) Statutory Authority: [40 ILCS 5/15-150; 40 ILCS 5/15-177]

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation):

1) Rulemaking: Proposed Rule

A) Description: The System plans to propose rules establishing the procedure for making estimated payments on annuities until the annuity amount is finalized. This rule will be new and will be contained in a new section number.

B) Statutory Authority: [40 ILCS 5/15-135; 40 ILCS 5/15-145; 40 ILCS 5/15-177]

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2000 REGULATORY AGENDA

C) Schedule of meeting/hearing date: No schedule has been established at this time.D) Date agency anticipates First Notice: No date has been determined at this time.E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: Nonec) Part (Heading and Code Citation):1) Rulemaking: Proposed RuleA) Description: The System plans to establish an administrative rule that will provide uniformity in how to determine the "highest annual earnings" as used in the earnings limitation for academic staff and employees. This rule will be new and will be contained in a new section number.B) Statutory Authority: [40 ILCS 5/15-139; 40 ILCS 5/15-177]C) Schedule of meeting/hearing date: No schedule has been established at this time.D) Date agency anticipates First Notice: No date has been determined at this time.E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2000 REGULATORY AGENDA

Dan M. Slack
General Counsel
State Universities Retirement System

1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation):1) Rulemaking: Proposed RuleA) Description: The System plans to establish an administrative rule that will provide uniformity in how to determine the "highest annual earnings" as used in the earnings limitation for academic staff and employees. This rule will be new and will be contained in a new section number.B) Statutory Authority: [40 ILCS 5/15-139; 40 ILCS 5/15-177]C) Schedule of meeting/hearing date: No schedule has been established at this time.D) Date agency anticipates First Notice: No date has been determined at this time.E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
FEBRUARY 8, 2000

NOTICES: Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
-First Notice Published: 23 Ill. Reg. 13285 - 11/5/99
-Expiration of Second Notice: 2/20/00

Children and Family Services

2. Reimbursement to Counties (89 Ill. Adm. Code 361)
-First Notice Published: 23 Ill. Reg. 12909 - 10/22/99
-Expiration of Second Notice: 2/20/00
3. Economic Development Through a Growing Economy Program (EDGE) (14 Ill. Adm. Code 527)
-First Notice Published: 23 Ill. Reg. 10615 - 9/3/99
-Expiration of Second Notice: 3/3/00

Insurance

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
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Human Services

4. Standards and Licensure Requirements for Community-Integrated Living Arrangements (59 Ill. Adm. Code 115)
-First Notice Published: 23 Ill. Reg. 13738 - 11/19/99
-Expiration of Second Notice: 3/5/00
5. Sexually Violent Persons (59 Ill. Adm. Code 299)
-First Notice Published: 23 Ill. Reg. 13899 - 11/29/99
-Expiration of Second Notice: 3/5/00
6. General Assistance (89 Ill. Adm. Code 114)
-First Notice Published: 23 Ill. Reg. 13979 - 11/29/99
-Expiration of Second Notice: 3/5/00
7. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 23 Ill. Reg. 12029 - 10/8/99
-Expiration of Second Notice: 2/12/00
8. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 23 Ill. Reg. 13186 - 10/29/99
-Expiration of Second Notice: 2/12/00
9. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 23 Ill. Reg. 13319 - 11/5/99
-Expiration of Second Notice: 2/12/00
10. Food Stamps (89 Ill. Adm. Code 121)
-First Notice Published: 23 Ill. Reg. 13970 - 11/29/99
-Expiration of Second Notice: 3/5/00
11. Determination of Need (DON) and Resulting Service Cost Maximums (SCMs) (89 Ill. Adm. Code 679)
-First Notice Published: 23 Ill. Reg. 13315 - 11/5/99
-Expiration of Second Notice: 2/18/00
12. Provider Requirements, Type Services, and Rates of Payment (89 Ill. Code 686)
-First Notice Published: 23 Ill. Reg. 13330 - 11/5/99
-Expiration of Second Notice: 2/18/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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SPRINGFIELD, ILLINOIS
9:00 A.M.
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13. Required Procedure for Filing and Securing Approval of Life Insurance, Annuity and Accident and Health Insurance, Voluntary Health Services Plans, Vision Service Plans, Dental Service Plans, Pharmaceutical Service Plans, Limited Health Service Organizations and Health Maintenance Organizations Policy Forms (50 Ill Adm Code 916)
-First Notice Published: 23 Ill Reg 6999 - 6/18/99
-Expiration of Second Notice: 3/4/00

14. Managed Care Reform and Patient Rights (50 Ill Adm Code 5420)
-First Notice Published: 23 Ill Reg 12077 - 10/8/99
-Expiration of Second Notice: 3/3/00

Liquor Control Commission

15. The Illinois Liquor Control Commission (11 Ill Adm Code 100)
-First Notice Published: 23 Ill Reg 12518 - 10/15/99
-Expiration of Second Notice: 2/27/00

Natural Resources

16. Open Land Trust Grant Program (17 Ill Adm Code 3050)
-First Notice Published: 23 Ill Reg 14107 - 12/3/99
-Expiration of Second Notice: 3/4/00

Professional Regulation

17. Illinois Athletic Trainers Practice Act (68 Ill Adm Code 1160)
-First Notice Published: 23 Ill Reg 12538 - 10/15/99
-Expiration of Second Notice: 2/20/00

18. Medical Practice Act of 1987 (68 Ill Adm Code 1285)
-First Notice Published: 23 Ill Reg 12308 - 10/8/99
-Expiration of Second Notice: 2/20/00

19. Optometric Practice Act of 1987 (68 Ill Adm Code 1320)
-First Notice Published: 23 Ill Reg 13359 - 11/5/99
-Expiration of Second Notice: 2/20/00

Public Aid

20. Hospital Services (89 Ill Adm Code 148)
-First Notice Published: 23 Ill Reg 12756 - 10/15/99
-Expiration of Second Notice: 3/2/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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SPRINGFIELD, ILLINOIS
9:00 A.M.
FEBRUARY 8, 2000

21. Child Support Enforcement (89 Ill Adm Code 160)
-First Notice Published: 23 Ill Reg 12573 - 10/15/99
-Expiration of Second Notice: 3/4/00

22. Illinois Health and Hazardous Substances Registry (77 Ill Adm Code 840)
-First Notice Published: 23 Ill Reg 8931 - 8/13/99
-Expiration of Second Notice: 2/12/00

23. Payment of Taxes by Electronic Funds Transfer (86 Ill Adm Code 750)
-First Notice Published: 23 Ill Reg 13535 - 11/12/99
-Expiration of Second Notice: 2/24/00

EMERGENCY AND PEREMPTORY RULEMAKINGS

24. Repeal of Land Sales Registration Act (68 Ill Adm Code 1260)
(Emergency)
-Notice Published: 24 Ill Reg 680 - 1/14/00

25. Land Sales Registration Act (68 Ill Adm Code 1260) (Emergency)
-Notice Published: 24 Ill Reg 691 - 1/14/00

26. Real Estate License Act (68 Ill Adm Code 1450) (Emergency)
-Notice Published: 24 Ill Reg 704 - 1/14/00

27. Repeal of Real Estate License Act (68 Ill Adm Code 1450) (Emergency)
-Notice Published: 24 Ill Reg 785 - 1/14/00

28. Real Estate Time Share Act (68 Ill Adm Code 1451) (Emergency)
-Notice Published: 24 Ill Reg 850 - 1/14/00

Central Management Services

29. The Travel Regulation Council (80 Ill Adm Code 300) (Emergency)
-Notice Published: 24 Ill Reg 861 - 1/14/00

30. Travel (80 Ill Adm Code 2800) (Emergency)
-Notice Published: 24 Ill Reg 867 - 1/14/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING
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SPRINGFIELD, ILLINOIS
9:00 A.M.
FEBRUARY 8, 2000

Commerce Commission

31. Requirements For Businesses With Private Business Switch Service To Comply With The Emergency Telephone System Act (83 Ill Adm Code 726) (Emergency)
-Notice Published: 24 Ill Reg 131 - 1/3/00

Criminal Justice Information Authority

32. Operating Procedures for the Administration of Non-Federal Grant Funds (20 Ill Adm Code 1560) (Emergency)
-Notice Published: 24 Ill Reg 1282 - 1/21/00

Drycleaner Environmental Response Trust Fund Council of Illinois

33. Public Information (2 Ill Adm Code 3100) (Emergency)
-Notice Published: 24 Ill Reg 3100 - 1/7/00

34. General Program (35 Ill Adm Code 1500) (Emergency)
-Notice Published: 24 Ill Reg 307 - 1/7/00

Professional Regulation

35. Interior Design Profession Title Act (68 Ill Adm Code 1255) (Emergency)
-Notice Published: 24 Ill Reg 872 - 1/14/00

Revenue

36. Professional Boxing and Wrestling Act (68 Ill Adm Code 1370) (Emergency)
-Notice Published: 24 Ill Reg 875 - 1/14/00

Secretary of State

37. Motor Fuel Tax (86 Ill Adm Code 500) (Emergency)
-Notice Published: 24 Ill Reg 880 - 1/14/00

Housing Development Authority

38. Regulations Under the Illinois Securities Law of 1953 (14 Ill Adm Code 130) (Emergency)
-Notice Published: 24 Ill Reg 341 - 1/7/00

39. Procurement (44 Ill Adm Code 1400) (Emergency)
-Notice Published: 24 Ill Reg 358 - 1/7/00

EXEMPT RULEMAKINGAGENCY RESPONSE

40. Capital Crimes Litigation Trust Fund (74 Ill Adm Code 725) (Emergency)
-Notice Published: 24 Ill Reg 354 - 1/7/00

41. Hazardous Waste Management System: General (35 Ill Adm Code 720)
-Proposed Date: 23 Ill Reg 12087 - 10/8/99
-Adopted Date: 1/21/00

42. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill Adm Code 725)
-Proposed Date: 23 Ill Reg 12100 - 10/8/99
-Adopted Date: 1/21/00

43. Standards Applicable to Generators of Hazardous Waste (35 Ill Adm Code 722)
-Proposed Date: 23 Ill Reg 12185 - 10/8/99
-Adopted Date: 1/21/00

44. Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (35 Ill Adm Code 724)
-Proposed Date: 23 Ill Reg 12195 - 10/8/99
-Adopted Date: 1/21/00

Housing Development Authority

45. Low-Income Housing Tax Credit Allocation (47 Ill Adm Code 350)

POINT COMMITTEE ON ADMINISTRATIVE RULES

JOURNAL OF POLITICAL SCIENCE 2001

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 18, 2000 through January 24, 2000 and have been scheduled for review by the Committee at its February 8, 2000 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second
Notice

3/2/00 Department of Public Aid, Hospital Services (89 Ill Adm Code 148)

3/3/00 Department of Insurance, Managed Care
Reform and Patient Rights (50111) Adm
23 111 Reg

3/4/00 Department of Insurance, Required
Procedure for Filing and Securing
Approval of Life Insurance, Annuity and
Accident and Health Insurance,
Voluntary Health Services Plans, Vision
Service Plans, Dental Service Plans,
Pharmaceutical Service Plans, Limited
Health Service Organizations and Health
Maintenance Organizations Policy Forms

3/3/00 Department of Commerce and Community Affairs, Economic Development Through a Growing Economy Program (EDGE) (14 Tll 10615 9/3/99 23 Tll Reg

3/4/00 Department of Public Aid, Child Support 10/15/99 2/8/00

3/4/00	Department of Natural Resources, Open Land Trust Grant Program (17 11 Adm 23 11 Reg 1407 2050)	12/3/99	2/8/00
12573			

PROCLAMATIONS

2000-1

ALPHA KAPPA ALPHA, INC. DAY

WHEREAS, Alpha Kappa Alpha Sorority (AKA) was founded in 1908 and has grown to include more than 8,000 members and over 500 chapters state-wide and internationally; and

WHEREAS, with the motto "Supreme In Service To All Mankind," AKA strives to coordinate college trained professional women to be 2000 "TrainBlazers" in Education, Health, The Black Family, Economic Empowerment, Arts, and Leadership Development target programs; and

WHEREAS, the Dynamic Ladies of Pink and Green Pearls Interest Group of Alpha Kappa Alpha, Inc. will be officially chartered on Saturday, January 8, 2000, by Mrs. Nadine C. Bonds, Central Regional Director, and Doris B. Kyle-Powell, the chapter's president and organizer;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 8, 2000, as ALPHA KAPPA ALPHA, INC. DAY in Illinois.

Issued by the Governor January 3, 2000.

Filed by the Secretary of State January 14, 2000.

2000-2

VAUGHN E. BEEMAN DAY

WHEREAS, Vaughn E. Beeman, having been raised in a Christian family where his father was a minister, with his three brothers all attended bible college; and

WHEREAS, Mr. Beeman began his career as youth minister upon graduation from Lincoln Christian College where he received a bachelors and masters degree; and

WHEREAS, Mr. Beeman after successful ministries in Indiana and Georgia began a career as youth minister at West Side Christian Church in Springfield in 1966; and

WHEREAS, Mr. Beeman also conducted adult leader training seminars across America, authored two books, and taught at Lincoln Christian College in the Youth Ministry Department for eight years; and

WHEREAS, Mr. Beeman became senior minister of West Side Christian Church in 1978 and remains in that position to the present; and

WHEREAS, the Church has completed a 12 million dollar relocation process to its present 47 acre location at 2850 Cider Mill Lane in Springfield, Illinois; and

WHEREAS, Mr. Beeman leadership has caused the Church to grow in membership and all areas providing a full scale program for its 2,000 active members, including a Christian Day Care Center and Christian Elementary School; and

WHEREAS, Mr. Beeman is respected and revered by his Christian friends and associates;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 9, 2000, as VAUGHN E. BEEMAN DAY in Illinois.

Issued by the Governor January 4, 2000.

Filed by the Secretary of State January 14, 2000.

2000-3

A DAY FOR HEARTS: CONGENITAL HEART DEFECT AWARENESS DAY

WHEREAS, congenital heart defects (CHD) are those existing at birth; and WHEREAS, annually more than 32,000 infants are born with heart defects in the United States; and

WHEREAS, with familiarity of the disorder, more diagnoses are being made of what was, not long ago, thought to be an extremely rare disorder and not repairable; and

WHEREAS, CHD is among the most common birth defect and is the leading cause of defect-related deaths. Too many babies born with CHDs continue to die due to late detection, a lack of donor hearts, or failure of the medical intervention used; and

WHEREAS, CHD is being researched by numerous professionals (at least 35 defects are now recognized) to more accurately describe its origin, physical signs and symptoms, and surgical options; and

WHEREAS, citizens should be made more aware of CHD so that early diagnosis and intervention become a top priority;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 14, 2000, as A DAY FOR HEARTS: CONGENITAL HEART DEFECT AWARENESS DAY in Illinois.

Issued by the Governor January 4, 2000.

Filed by the Secretary of State January 14, 2000.

2000-4

NICK GANTES DAY

WHEREAS, Nick Gantes, Associate Director of the Office of Alcoholism and Substance Abuse (OSA), has been responsible for a statewide service network of over 500 programs focusing on alcohol and other drug intervention, treatment, aftercare and research; and

WHEREAS, under his leadership he managed an annual budget of over \$200 million and pursued financial resources at the federal and local levels to support substance abuse service; and

WHEREAS, he directed the promotion of policy at the local, state and federal level designed to advance the field of substance abuse services and to address the needs of constituents in Illinois; and

WHEREAS, he contributed to the development of managed care technologies designed to improve the quality of chemical dependence care and reduce cost to the State of Illinois; and

WHEREAS, he initiated, organized and developed specialty programs for criminal justice, juvenile justice, and child welfare system referrals; and

WHEREAS, he served on the frontlines in community-based organizations as a client advocate and in mental health, chemical dependence, and criminal justice advocacy arenas; and

WHEREAS, his life-long commitment to prevention and intervention has raised public awareness regarding substance abuse issues and has helped build a healthier society and a healthier future for the citizens of Illinois for more than 16 years; and

WHEREAS, on January 12, 2000, Nick Gantes will be honored at a reception for his excellence in leadership in the field of Substance Abuse & Prevention; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 12, 2000, as NICK GANTES DAY in Illinois.

Issued by the Governor January 4, 2000.
Filed by the Secretary of State January 14, 2000.

2000-5

SCHAUMBURG JUNIOR CHAMBER OF COMMERCE WEEK

WHEREAS, the Schaumburg Junior Chamber of Commerce has been involved in the future development of community leaders nationally and locally for more than 34 years; and

WHEREAS, the Schaumburg Junior Chamber of Commerce has devoted itself to providing leadership and rendering services in a variety of endeavors; and

WHEREAS, the Schaumburg Junior Chamber of Commerce has contributed to such humanitarian projects as assisting the elderly, fundraising for the disadvantaged, specialized care for children, and countless other efforts to address community needs; and

WHEREAS, the United States Junior Chamber of Commerce has continually developed programs to address the needs of individual communities; and

WHEREAS, the Schaumburg Junior Chamber of Commerce have adopted the basic tenets of purpose, brotherhood, free enterprise, government of laws, human personality, and service to humanity; and

WHEREAS, the State of Illinois reveres its human resources like the Schaumburg Junior Chamber of Commerce and dedicates itself to ensuring that each Illinoisan is free to utilize his/her talents to reach their fullest potential;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 16-22, 2000, as SCHAUMBURG JUNIOR CHAMBER OF COMMERCE WEEK in Illinois.

Issued by the Governor January 4, 2000.

Filed by the Secretary of State January 14, 2000.

2000-6

CUMBERLAND COUNTY SOIL AND WATER CONSERVATION DISTRICT DAY

WHEREAS, the Cumberland County Soil and Water Conservation District was formed in 1949 under the leadership of Mr. Max Young and Mr. Hershel Ariens; and

WHEREAS, the District works to protect natural resources through a variety of soil conservation and water quality protection programs; and

WHEREAS, the District staff provide landowners with information and technical assistance to prevent and correct natural resource related problems; and

WHEREAS, the District assists farmers in developing conservation plans designed to prevent soil loss, reduce nutrient runoff from fields, manage animal waste, and otherwise operate in an environmentally sound manner; and

WHEREAS, the District helps conduct an annual soil erosion survey to track progress toward the goal of achieving tolerable soil loss on Illinois cropland; and

WHEREAS, the leadership of the Cumberland County Soil and Water Conservation District and voluntary efforts of county landowners have brought more than 83 percent of Cumberland County cropland below the tolerable soil loss benchmark; and

WHEREAS, the District has been a leader in organizing pooled orders for

fish and trees, thereby providing an economical way for landowners to stock ponds, plant windbreaks, and improve wooded areas; and

WHEREAS, the District helps promote sound stewardship among youths by giving each third grade school student in the county a tree on Arbor Day;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 14, 2000, as CUMBERLAND COUNTY SOIL AND WATER CONSERVATION DISTRICT DAY in Illinois honoring 50 years of service to the people of Cumberland County.

Issued by the Governor January 5, 2000.
Filed by the Secretary of State January 14, 2000.

2000-7
PASTOR VERNON LEE AMSLER DAY

WHEREAS, Pastor Vernon Lee Amsler has been the steadfast leader of the congregation of Faith Assembly of God in Quincy, Illinois, for the past 30 years; and

WHEREAS, Pastor Amsler has demonstrated an enduring commitment to his congregation and the people of the City of Quincy and the surrounding communities through his nine-year service as chaplain at Blessing Hospital and his leadership and participation in community organizations such as the Association for Retarded Citizens and the Adams County Domestic Violence Board; and

WHEREAS, Pastor Amsler daily demonstrates a spirit of generosity and kindness and fosters this spirit in his congregation through a commitment to missions at home and abroad; and

WHEREAS, Pastor Amsler has led the congregation of Faith Assembly of God to contribute its time and resources to local and world communities through dramatic productions, the "Street Reach" ministry, and volunteer teams building churches and facilities in other countries; and

WHEREAS, during his 34 years of ministerial service, Pastor Amsler has performed nearly 200 wedding ceremonies, dedicated over 160 babies and has lead 18 of his parishioners into the full-time ministry; and

WHEREAS, Pastor Amsler is a connoisseur of fine cuisine and cannot pass up an airport hot dog; and

WHEREAS, the members of the congregation of Faith Assembly of God wish to express their sincere appreciation for Pastor Amsler's dedication to the spiritual well-being of their church and their community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 30, 2000, as PASTOR VERNON LEE AMSLER DAY in Illinois.

Issued by the Governor January 5, 2000.
Filed by the Secretary of State January 14, 2000.

2000-8
SEED MONTH

WHEREAS, the abundance of Illinois crops relies on fertile soil, diligent farmers, and high quality seeds; and

WHEREAS, to ensure that seeds are of the highest quality, there must be agricultural-minded seed producers, conscientious inspectors, skilled technicians, and concerned dealers; and

WHEREAS, agriculture and the seed industry significantly contribute to our state's economy with value-added products marketed throughout the world; and

WHEREAS, the Bureau of Agricultural Products Inspection within the Illinois Department of Agriculture tests the purity and germination of seeds, validates the accuracy of product labels, and cooperates with the Illinois Crop Improvement Association, the state's official seed-certifying agency, an independent, nonprofit organization; and

WHEREAS, in cooperation with educational and regulatory agencies, the Illinois Seed (Trade) Association has sustained an informed membership, the latest research developments, the production of high-quality seed, and has developed an effective seed program advocating pertinent legislation;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2000 as SEED MONTH in Illinois in appreciation of the seed industry's contribution to supplying food and fiber to the world through the production of Illinois crops.

Issued by the Governor January 5, 2000.
Filed by the Secretary of State January 14, 2000.

2000-9

CHILD PASSENGER SAFETY MONTH

WHEREAS, when used correctly, child safety seats reduce the risk of death by 70 percent for infants; and

WHEREAS, more children in the United States are killed and crippled in vehicle crashes than any other cause of injury; and

WHEREAS, all 50 states, the District of Columbia, Puerto Rico and the US Territories have enacted laws requiring the use of child passenger protection systems; and

WHEREAS, parents and guardians must be sure that children age 12 and under always ride in the back seat and are buckled up or properly installed in child safety seats; and

WHEREAS, death and injury may be significantly reduced through greater public awareness, information, education, and enforcement of child safety seat laws;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 2000 as CHILD PASSENGER SAFETY MONTH in Illinois.

Issued by the Governor January 6, 2000.
Filed by the Secretary of State January 14, 2000.

2000-10

BLACK DATA PROCESSING ASSOCIATES DAY

WHEREAS, Black Data Processing Associates (BDPA) is a professional association founded in 1975 in Philadelphia, Pennsylvania; and

WHEREAS, its goals are to help strengthen the expertise of minority members of the information technology community, offer this expertise to those minorities evaluating information technology for career or business potential, and broaden the information technology knowledge of the minority community as a whole; and

WHEREAS, BDPA has grown into a national organization of over 50 chapters of 2,000 members across the country; and

WHEREAS, BDPA Chicago was chartered March 16, 1986, and is now the largest BDPA chapter in the U.S. with over 300 members; and

WHEREAS, BDPA Chicago's main focus is a life cycle program for information

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technology; and

WHEREAS, beginning with adopt-a-school programs and progressing through high school computer clubs, summer internships for high school and college students, professional development programs, and senior IT mentoring Program, BDPA Chicago supports the IT professional from the cradle to grave; and

WHEREAS, BDPA is working to develop community technology centers to fulfill our objective of bringing information technology to the community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 29, 2000, as BLACK DATA PROCESSING ASSOCIATES DAY in Illinois.

Issued by the Governor January 11, 2000.

Filed by the Secretary of State January 14, 2000.

CRIME STOPPERS MONTH IN LAKE COUNTY

WHEREAS, Crime Stoppers of Lake County was formed in 1983 and is a community program comprised of concerned citizens who work closely with police authorities, the news media, and the public in the fight against crime in Lake County and surrounding communities; and

WHEREAS, during the month of January, Crime Stoppers will be involved in fundraising ventures and will provide information to increase public awareness of crime prevention and community safety; and

WHEREAS, Crime Stoppers of Lake County is a non-profit organization, funded primarily by private donations of money, goods or service from the public, corporations, clubs, associations, retailers and organizations. The incredible success of Crime Stoppers is due to the continued support of all who contribute to the program. Cash rewards are paid to people who provide information leading to the arrest of felony crime offenders and to the capture of felony fugitives. Callers always remain anonymous; and

WHEREAS, Crime Stoppers of Lake County has been in existence for more than 15 years. With the cooperation of citizens and the police departments, Crime Stoppers has proven to be successful in combating crime and has more than 3,000 arrests and convictions for recovery of stolen property and illicit narcotics. It should be noted, that since the programs inception in April 26, 1983, Lake County Crime Stoppers has led law enforcement officers to more than \$10 million worth of contraband and recovered stolen property throughout Lake County, Northern Illinois and Wisconsin; and

WHEREAS, Gun Stoppers is another program that has been established to remove illegal guns from public places, such as schools, school buses and playgrounds; and

WHEREAS, Lake County benefits when concerned citizens look out for each other and report crime to the appropriate authorities. It is this type of support between concerned citizens and the law enforcement agencies that improves the quality of life and safety for all communities within Lake County;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 2000 as CRIME STOPPERS MONTH IN LAKE COUNTY in Illinois.

Issued by the Governor January 11, 2000.

Filed by the Secretary of State January 14, 2000.

2000-12

ENGINEERS WEEK

WHEREAS, the engineering community of this state has provided a wealth of innovation in the fields of agriculture, industry, transportation, construction, and education; and WHEREAS, increasingly, we must depend upon these professional men and women to find technological solutions to the problems we will face in the future; and

WHEREAS, in order to emphasize the role of professional engineers in our society, the 2000 theme for National Engineers Week is "Turning Ideas Into Reality;"

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 20-26, 2000, as ENGINEER'S WEEK in Illinois.
Issued by the Governor January 11, 2000.
Filed by the Secretary of State January 14, 2000.

2000-13 GIRLS AND WOMEN IN SPORTS DAY

WHEREAS, the National Association for Girls and Women in Sport coordinates community-based events nationally, which honor the achievements of girls and women in sports; and

WHEREAS, after 25 years of the existence of Title IX, girls and women today are still facing numerous inequities in the field of sports and physical education; and

WHEREAS, "One Day Every Day" is the theme for the 14th annual National Girls and Women in Sports Day; and

WHEREAS, the commemorative day serves to bring national attention to the achievements of women athletes, and to the challenges and issues facing females in sports; and

WHEREAS, this day is a nationwide celebration in all 50 states and internationally held on February 9, 2000;

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim,

February 9, 2000, as GIRLS AND WOMEN IN SPORTS DAY in Illinois.
Issued by the Governor January 11, 2000.

Filed by the Secretary of State January 14, 2000.

2000-14 ISRAEL FILM FESTIVAL WEEK

WHEREAS, since 1982, the IsraFest Foundation has proudly presented the best and brightest of Israel's films and documentaries; and WHEREAS, the creative talents of Israeli filmmakers have been introduced to appreciative new audiences; and

WHEREAS, groundbreaking and award winning feature films, documentaries and student shorts have received critical acclaim each year at this important showcase; and

WHEREAS, the Festival is proud to announce that it has accomplished its goal of growth and expansion for the new millennium by adding Chicago to the festival circuit; and

WHEREAS, for the first time, the IsraFest Foundation will offer \$50,000 in prizes to filmmakers in all categories represented in the festival -- feature film, documentary, television dramas, mini series, and student films; and

WHEREAS, the IsraFest Foundation is proud of its accomplishments and is

pleased to present the 16th Israel Film Festival 2000 in Chicago from April 29 - May 4, 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 29 - May 4, 2000, as ISRAEL FILM FESTIVAL WEEK in Illinois.
Issued by the Governor January 11, 2000.

Filed by the Secretary of State January 14, 2000.

2000-15 LAND SURVEYORS' MONTH

WHEREAS, land surveying is one of the oldest technical services of mankind and our complex civilization depends more and more on surveyors' skills and accuracy to determine property rights and methods of design and construction; and

WHEREAS, the surveying skills of George Washington, the Commander-in-Chief of our Revolutionary Forces, may have had considerable influence on the winning of our national independence since Washington, a land surveyor before the war, directed the planning of military operations and selected the battle sites; and

WHEREAS, more than 80 years later when the states were threatened by a cruel division, another great president and former surveyor, Abraham Lincoln, was recognized as the "Savior of Our Country" after directing the campaigns that preserved our nation;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 2000 as LAND SURVEYORS' MONTH in Illinois in recognition of the two "Land Surveyor Presidents," George Washington and Abraham Lincoln, whose birthdays are observed this month.
Issued by the Governor January 11, 2000.
Filed by the Secretary of State January 14, 2000.

Rules acted upon during the calendar quarter from Issue 1 through Issue 16 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50-III-Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or instate@ccgate.sos.state.il.us (Internet address).

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